

THE BENGAL CODE,

In Four Volumes :

CONTAINING

**The Regulations, Ordinance and Local
Acts in force in the Presidency of
Fort William in Bengal ;**

WITH

**Tables and Lists, Notes as to Scheduled Districts and
De-Regulationised Tracts, and Notifications declaring
Enactments in force in, or extending Enactments
to, such Districts and Tracts,
and a Full Index.**

FOURTH EDITION.

EDITED BY

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**Of the Inner Temple, Barrister-at-Law,
Secretary to the Bengal Legislative Council.**

VOLUME I :

**Bengal Regulations, Local Acts of the Governor General of India in Council
Regulations made under the Government of India Act, 1870, and an
Ordinance made under the Indian Councils Act, 1861.**



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THE BENGAL CODE.

VOLUME I.

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PREFACE.

THIS, the fourth edition of the Bengal Code, is published in four volumes. Volumes I to III contain all local enactments, namely,—

Contents of
Code.

- (1) Bengal Regulations,
- (2) local Acts of the Governor General of India in Council,
- (3) Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3),
- (4) an Ordinance made under the Indian Councils Act, 1861 (24 & 25 Vict., c. 67),
- (5) Acts of the Lieutenant-Governor of Bengal in Council,¹ and
- (6) Acts of the Lieutenant-Governor of Eastern Bengal and Assam in Council.²

which are in force in the territories comprised within the Presidency of Fort William in Bengal,³ or in any part of those territories, with the exception of certain enactments, specified in Part II of Volume IV, which have been omitted from the Code because they—

- (a) are of a purely private character, or
- (b) are spent or obsolete.

2. The present volume contains the Bengal Regulations, the local Acts of the Governor General of India in Council, the Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3), and the Ordinance made under the Indian Councils Act, 1861 (24 & 25 Vict., c. 67); Volume II will contain the Bengal Acts of 1862 to 1890, and Volume III will contain the Bengal Acts of 1891 to April, 1913, and the Eastern Bengal and Assam Acts (1907 to 1912).

3. The present volume also contains four General Acts, namely, (1) the Tributary Mahals of Orissa Act, 1893 (11 of

¹ The expression "Bengal Act" is used generally in this Code to denote these Acts—*cf.* the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 3, cl. (6), in Vol. III.

² The expression "E. B. and A. Act," or "Eastern Bengal and Assam Act," is used generally in this Code to denote these Acts—*cf.* the Eastern Bengal and Assam General Clauses Act, 1909 (E. B. and A. Act 1 of 1909), s. 5 (22), in Vol. III.

³ The word "Bengal" is used generally in this Code to denote these territories.

Contents of
Code—*contd.*

1893), (2) the Amending Act, 1897 (5 of 1897), (3) the Assam Labour and Emigration Act, 1901 (6 of 1901), and (4) the Repealing and Amending Act, 1903 (1 of 1903), which it is convenient to include in it because the first and third are omitted from the collection of General Acts, Ed. 1909. and the second and fourth are printed in that collection in an expurgated form.

4. To Volumes I to III are prefixed chronological tables showing, as far as practicable, whether and to what extent each enactment printed in it has been partially repealed or otherwise affected in Bengal, or any part thereof, by legislation.

5. Volume IV will contain—

- (1) a table of short titles of enactments printed in the Code ,
- (2) a chronological table of unrepealed local enactments, applying to Bengal, which are omitted from the Code ;
- (3) explanatory notes as to the Scheduled Districts and de-regulationized tracts in Bengal ;
- (4) a chronological table of enactments declared in force in, or extended to, Scheduled Districts in Bengal by notification under the Scheduled Districts Act, 1874 (14 of 1874), and still in force there ;
- (5) a chronological table of enactments in force in the de-regulationized tracts in Bengal (the Chittagong Hill-tracts) ;
- (6) the notifications from which the tables mentioned in clauses (4) and (5), *ante*, were compiled ;
- (7) a list of abbreviations used in the Code ;
- (8) a list of publications cited in the Code ;
- (9) a full index to the Code, and
- (10) a form for the entry of correction slips.

6. The Bengal Regulations printed in the Code are based on Clarke's edition published in 1854 under the authority of the Court of Directors of the East India Company, and the other enactments on official copies preserved in the Legislative Departments of the Governments of India and Bengal. The notifications printed in Volume IV are taken from the issues of the Gazette of India and the local official Gazettes in which they were originally published.

7. As stated in paragraph 1, *ante*, only local enactments (with the exceptions mentioned in paragraph 3, *ante*) are printed in this Code. The other enactments in force in Bengal are—

Other Statute-law in force in Bengal.

- (1) Acts of Parliament (the latest edition of these is the "Collection of Statutes relating to India," published by the Legislative Department of the Government of India in 2 volumes in 1899 and 1901); and
- (2) General Acts of the Governor General of India in Council (the latest edition of these is the "Unrepealed General Acts of the Governor General of India in Council," published by the same Department in 6 volumes in 1909).

8. In the last edition of this Code, the enactments were grouped under subject-headings. In the present edition the plan adopted in the first and second editions of the Bengal Code, and in all other Provincial Codes, has been reverted to, the enactments being printed in six separate groups, comprising, respectively, the Bengal Regulations, the local Acts of the Governor General of India in Council, the Regulations made under the Government of India Act, 1870, the Ordinance made under the Indian Councils Act, 1861, the Bengal Acts and the Eastern Bengal and Assam Acts.

Grouping of enactments in Code.

9. The following changes have been made in reprinting the enactments contained in this Code :—

Changes in reprinting.

- (1) Over the heading to each enactment the short title of the enactment has been entered; and where the short title was provided by an Act of subsequent date, *e.g.*, by the Indian Short Titles Act, 1897 (14 of 1897), reference has been given to such Act in a footnote.

Headings.

- (2) Over the title of each enactment the date on which it became law has been noted in brackets, as in the latest edition of the Statutes Revised. That date is,—

(a) in the case of a Bengal Regulation, the date on which it was passed by the Governor General of India in Council or the Vice-President in Council, as the case may be;

(b) in the case of an Act of the Governor General of India in Council prior to 1854, the date

Changes in
reprinting—
contd.
Headings—
contd.

on which it was passed by the Governor General in Council ; and, in the case of later Acts of the Governor General of India in Council, the date on which they respectively received the Governor General's assent ;

- (c) in the case of a Regulation made under the Government of India Act, 1870, the date on which it was published in the Calcutta Gazette after having received the approval of the Governor General in Council and the assent of the Governor General and been published in the Gazette of India ;
- (d) in the case of an Ordinance made under the Indian Councils Act, 1861, the date on which it was published in the Gazette of India ;
- (e) in the case of a Bengal Act, the date on which it was published in the Calcutta Gazette after having received the assent of the Governor General ; and
- (f) in the case of an Eastern Bengal and Assam Act, the date on which it was published in the Eastern Bengal and Assam Gazette after having received the assent of the Governor General.

The particulars indicated in the foregoing clauses (a) to (f), which were printed at the head of the several enactments on their first publication, have been omitted from the Code, their place being taken by the date in brackets above referred to. It should be remembered that this date in brackets is not always the date on which an enactment came into actual operation, for in some cases an enactment remains inoperative until a date fixed by one of its sections or by notification published some time after the passing of the enactment. All dates fixed by such notifications are mentioned in footnotes.

- (3) The headings to the pages have been amplified.

- (4) Where a whole section has been repealed throughout Bengal, it has been omitted, the subject thereof and the fact of repeal being stated *in loco*. Changes in reprinting—
could.
Repeals.
- (5) Where operative words in a section have been repealed, asterisks have been inserted in place of the words repealed, and a reference to the repealing enactment has been given in a footnote; the repealed words, unless of inconvenient length, being also reproduced in the footnote.
- (6) Where purely formal words in a section have been repealed, the repealed words have been omitted, and a note to that effect, with a reference to the repealing enactment, has been added.
- (7) Where a whole section has been repealed, and a new section substituted therefor, the new section has been inserted in the text and a reference to the amending enactment has been given in a footnote; the repealed section, unless of inconvenient length, being also reproduced in the footnote. Amendments.
- (8) Where a portion of a section has been repealed and other words or provisions substituted therefor, the substituted words or provisions have been inserted in the text (in square brackets in some cases), and a reference to the amending enactment has been given in a footnote; the original matter, unless of inconvenient length, being also reproduced in the footnote.
- (9) Where new matter has been added to a section by subsequent legislation, it has been inserted in the text (in square brackets in some cases), and a reference to the amending enactment has been given in a footnote.
- (10) Where sections or clauses are in force in different forms in different parts of Bengal, they are printed, in their different forms, in parallel columns, the differences being, as a rule, indicated by italic type. Sections in
force in
different forms
in different
parts of
Bengal.
- (11) Where sections or clauses of an Act which applies generally in Bengal are in force in parts of Bengal and not in other parts, they are, as a rule, printed on one side of the page, the opposite side being left blank. Sections in
force in parts
of Bengal
only.

Changes in
reprinting—
contd.
*Treatment of
amendments
which do not
affect Bengal.*

- (12) Several of the enactments printed in this Code are in force in other Provinces as well as the Presidency of Fort William in Bengal. Amendments made in these enactments which do not apply to this Presidency or any part thereof have, as a rule, been excluded from this Code.

*Treatment of
unrepealed
matter which
is inapplicable
to Bengal or
obsolete.*

- (13) Several of the enactments printed in this Code contain matter which is obviously inapplicable to Bengal, or is spent or obsolete, but has not been formally repealed therein. Such matter has in some cases been omitted, or printed in italics, an explanatory note being inserted; and has in other cases been printed in italics and enclosed in square brackets, without any explanatory note.

*Marginal
notes.*

- (14) In earlier editions of the Bengal Code, marginal notes were added to sections which had been passed by the Legislature without any such notes, and the marginal notes appearing against some other sections as passed by the Legislature were shortened or corrected. In the present edition these improvements have been retained, and some further alterations have been made in order to bring marginal notes into harmony with amendments subsequently made by the Legislature in the sections. These changes have been made in reliance upon a decision¹ of the Calcutta High Court that marginal notes are not part of an Act. But no further changes have been made in such notes, however imperfect they may in some cases appear to be.

Numbers.

- (15) Arabic numerals have been substituted for the Roman numerals used (a) in the Bengal Regulations and the earlier Acts, to denote the numbers of sections, and (b) in all Regulations and Acts, to denote the number of an enactment.

- (16) Section-numbers occurring in the text have been uniformly printed in figures instead of in words.

Spelling.

- (17) Words belonging to Oriental languages have, as a rule, been printed in italics, and their spelling has been rendered uniform throughout.

¹ See *Punardeo Narain Singh v. Ram Sarap Roy* [1898], I. L. R., 25 Cal., at p. 362. See also a decision of the Privy Council to the same effect in *Thakurain Balraj Kunwar v. Rae Jugatpal Singh* (1904), L. R., 31 I. A., at p. 142.

(18) Lengthy sections have in some instances been divided into clauses and paragraphs.

Changes in reprinting—
could.
Miscellaneous
points.

(19) The number and year of enactments referred to in the text have been noted in the inner margin, except where both appear in the text.

(20) A table of contents has in several cases been added.

10. References have been given, in footnotes, to show where the Statement of Objects and Reasons, the Report of the Select Committee (when any such Report has been published) and the Debates or Proceedings in Council connected with each Act passed during and after the year 1862 are to be found in the Gazettes. These references, it must be understood, cannot be used judicially.¹

References to
legislative
papers.

11. Footnotes have also been given, under each enactment, to indicate the local extent of the enactment.

Local extent
of enact-
ments.

With reference to the extension or application of enactments by notification, it should be borne in mind that, where an enactment has been so extended or applied, it is to be taken as having been extended or applied as textually altered by subsequent legislation (if any) up to the date of the notification.

12. References have been given, in footnotes, to official collections, such as the Bengal Board of Revenue's Manuals and the Bengal Local Statutory Rules and Orders, 1912 (now in the Press), containing rules and orders issued under enactments. These references are confined to rules and orders in force in Bengal as now constituted. The last-mentioned work shows local rules and orders made for Bengal as constituted on the 31st March, 1912, and consequently omits rules and orders made for Eastern Bengal since 1905, and it is incomplete in some other respects also.

Rules and
orders issued
under
enactments.

13. Where one Act or Regulation refers to another, and such reference is directed by a subsequent enactment to be read as if made to the latter enactment, a footnote to that effect has been added.

References to
subsequent
enactments.

14. The provisions of the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912),² have been referred to in footnotes to enactments affected thereby.

References
to the Bengal,
Bihar and
Orissa and
Assam Laws
Act, 1912.

¹ See judgment of the Privy Council in *The Administrator-General of Bengal v. Premial Mullick* (1896), I. L. R., 22 Calc., at p. 799; also the dictum of Strachey, J., in *Q. E. v. Tilak* (1897), I. L. R., 22 Bom., at p. 128.

² Printed, *post*, p. 773.

Cross refer-
ences to
enactments.

15. The cross-references to enactments, which are given in footnotes to the Code, are, as a rule, confined to enactments in force in Bengal.

Construction
of enact-
ments.

16. For purposes of construction, the provisions of (1) the General Clauses Act, 1897 (10 of 1897),¹ (2) the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899),² and (3) the Eastern Bengal and Assam General Clauses Act, 1909 (E. B. and A. Act 1 of 1909),³ should always be borne in mind, the first in connection with Acts of the Governor General of India in Council and Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3), the second in connection with Bengal Acts, and the third in connection with Eastern Bengal and Assam Acts.

17. It should also be borne in mind that the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), section 5,⁴ declares that, for the purpose of facilitating the application to Bengal of any enactment passed before the commencement of that Act,—

(a) any Court may, subject to the other provisions of that Act, construe the enactment with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court, and

(b) the Local Government may, by notification in the local official Gazette, direct by what officer any authority or power shall be exercisable.

Some of the alterations which would probably be read into the enactments under the authority given by clause (a), above, are indicated by footnotes. These footnotes do not cite any authority, and should be understood as expressing only my own personal opinion.

Further
footnotes.

18. Various footnotes have been added, in addition to those mentioned in the preceding paragraphs. These are chiefly cross-references to Indian enactments and references to notifications in Indian Gazettes.

¹ Printed in the General Acts, 1887—97, Ed. 1909, p. 571.

² Printed in Vol. III of this Code.

³ Printed *post*, p. 774.

19. Act 9 of 1879 (the Burma Coast-lights Act, 1879), which was printed in the last edition of this Code, has been omitted from the present edition, as it is published in the General Acts, 1879, Ed. 1909.

Omission of
matter pub-
lished in
former
editions of
this Code.

20. The Chronological Tables of Bengal Regulations and Bengal Acts which were published in the first and second editions of this Code comprised all enactments of those classes, whether repealed or not; but the Chronological Tables published in the present edition comprise such enactments only as are now in force in Bengal. A complete list of all Regulations and Acts, whether repealed or not, will be found in the "Chronological Tables of the Indian Statutes" compiled by the present writer and published by the Legislative Department of the Government of India in 1909.

21. The lists published in Appendices to particular enactments in the last edition of this Code, showing places in Bengal in which certain Acts have been brought into force, have been omitted from the present edition, as the particulars given in them have been transferred to the Bengal Local Statutory Rules and Orders, 1912 (now in the Press).

22. Mr. K. C. Ghosh, of the Bengal Legislative Department, has assisted me in preparing this Code for the press, and has read all proofs, and is specially responsible for the correct printing of unaltered matter. Mr. S. C. Gupta, who recently officiated as Assistant Secretary to the Bengal Legislative Council, is responsible for the accuracy of all footnotes citing clauses of the new Code of Civil Procedure (Act 5 of 1908) which correspond to clauses of former Codes.

23. Correction slips will be issued half-yearly, to keep this work corrected to date in accordance with current legislation.

24. Communications respecting this work may be addressed to the Legislative Department of the Government of Bengal.

F. G. WIGLEY,

Secretary to the Bengal Legislative Council.

The 17th February, 1913.

CHRONOLOGICAL TABLE¹ OF ENACTMENTS PRINTED IN THIS VOLUME.

[With respect to the entry of repealing enactments in column 4 of this Table, the following has been the ordinary practice :—

- (1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered ;
- (2) where an enactment has been partially repealed and afterwards totally repealed, the total repeal only has been entered : a repeal of the unrepealed portions of an enactment is treated as a total repeal ;
- (3) partial repeals covered by later partial repeals have not been entered ;
- (4) local repeals covered by later local repeals have not been entered ;
- (5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the later repealing enactment has alone been entered.]

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.

1.—BENGAL REGULATIONS.

1793	1	The Bengal Permanent Settlement Regulation, 1793.	Short title given, Act 5 of 1897 ... S. 10 supplemented, Ben. Reg. 1 of 1801, s. 8. Ss. 10, 11 rep. in pt., Act 4 of 1846.	3
"	2	The Bengal Land-revenue Regulation, 1793.	Short title given, Act 5 of 1897 ... S. 13 rep. in pt., Ben. Reg. 5 of 1804. Rep. as to <i>Diwans</i> , Ben. Reg. 15 of 1813. Ss. 28, 29, 34, 35, 49 to 70 rep., Ben. Reg. 3 of 1822. S. 12 rep., Act 25 of 1854. S. 17 rep., Act 8 of 1868. [See next page.]	17

¹ This Table shows only Bengal Regulations, Local Acts of the Governor General of India in Council, Regulations made under the Government of India Act, 1870, and an Ordinance made under the Indian Council Act, 1861, which are in force in the Presidency of Fort William in Bengal or some part thereof. For full tables of all enactments, wherever in force, and whether repealed or unrepealed, see the "Chronological Tables of the Indian Statutes," Ed. 1909.

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*contd.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1793	2	The Bengal Land-revenue Regulation, 1793— <i>contd.</i>	<p>Ss. 23, 44 rep, Act 26 of 1871.</p> <p>Ss. 2, 19, 48 rep., s. 3, rep. in pt., Act 12 of 1873.</p> <p>Ss. 4, 8 to 10, 14 to 16, 18, 24 to 26 rep. in pt., ss. 21, 22, 27, 30 to 32, 46, 47 rep, Act 16 of 1874.</p> <p>Ss. 8 (13) rep. in pt., Act 12 of 1876.</p> <p>Ss. 18, 36, 38, 39, 40, 42, 43, 45 am., Act 1 of 1903.</p>	
"	8	The Bengal Decennial Settlement Regulation, 1793	<p>Short title given, Act 5 of 1897 ...</p> <p>S. 20 rep. in pt., Ben. Reg. 7 of 1796.</p> <p>Expld., Ben. Reg. 1 of 1801, s. 14.</p> <p>Ss. 23 to 25 rep., Ben. Reg. 17 of 1805.</p> <p>S. 58 rep., s. 65 rep. in pt., Ben. Reg. 5 of 1812, s. 3.</p> <p>S. 62 rep., Ben. Reg. 12 of 1817, as ext. by Ben. Reg. 1 of 1819, s. 4 (2).</p> <p>Ss. 1 to 3, 5 to 12, 42, 44 to 47, 61, 63, 68 to 101 rep, ss. 21, 35 rep. in pt., Act 16 of 1874.</p> <p>Ss. 16 to 18, 28, 29, 48, 56, 57, 59, 60 rep., s. 67 rep. in pt., Act 12 of 1876.</p> <p>Ss. 51 to 55, 64, 65 rep. in Eastern Bengal and locally in Western Bengal, Act 8 of 1885.</p> <p>Ss. 19, 66 rep. in pt., ss. 20, 21 am., s. 33 rep., Act 1 of 1903.</p>	31
	11	The Bengal Inheritance Regulation, 1793.	<p>Short title given, Act 5 of 1897 ...</p> <p>Application restricted—</p> <p>Ben. Reg. 10 of 1800,</p> <p>Ben. Reg. 12 of 1805, s. 36.</p> <p>[See next page.]</p>	41

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*contd.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1793	11	The Bengal Inheritance Regulation, 1793— <i>contd.</i>	Ss. 2 to 6 rep. in pt., Act 16 of 1874. S. 3 am., Act 12 of 1891.	
„	19	The Bengal Revenue-free Lands (Non-Bádsbáhi Grants) Regulation, 1793.	Short title given, Act 1 of 1903 ... Extended to Pataspur and Bhograi Parganas in Midnapore District, Ben. Reg. 12 of 1805, ss. 17, 22. Ss. 12 to 14, 16, 19 rep., Ben. Reg. 2 of 1819. Am., Reg. 14 of 1825. S. 10 rep. in pt., Act 10 of 1859, s. 28. S. 23 rep., Act 8 of 1868. S. 2 (2) rep. in pt., s. 18 rep., Act 16 of 1874. Ss. 21, 22, 29 to 34, 36 to 46 rep., Ben. Act 7 of 1876. S. 4 rep. in pt., Act 12 of 1891. Ss. 2, 3, 8, 10, 15 am., ss. 25, 35 rep., Act 1 of 1903.	47
„	37	The Bengal Revenue-free Lands (Bádsbáhi Grants) Regulation, 1793.	Short title given, Act 1 of 1903 ... Extended to Pataspur and Bhograi Parganas in Midnapore District, Ben. Reg. 12 of 1805, s. 25. Ss. 7 to 9, 11, 14 rep., Ben. Reg. 2 of 1819. Am., Ben. Reg. 13 of 1825, s. 5. „ Ben. Reg. 14 of 1825. S. 10 rep. in pt., ss. 13, 25, 34 rep., Act 16 of 1874. Ss. 16 to 18, 24, 26 to 29, 31 to 33, 35 to 41 rep., Ben. Act 7 of 1876. Ss. 2, 3, 5, 10 am., s. 2 (2) rep. in pt., ss. 20, 30 rep., Act 1 of 1903.	63

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*contd.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1793	38	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	Short title given, Act 5 of 1897 ... Ss. 3 to 6 rep., Act 8 of 1868. S. 2 rep. in pt., Act 16 of 1874. Title and s. 1 rep. in pt., Act 12 of 1891. S. 2 rep. in pt., Act 1 of 1903.	71
1794	3	The Bengal Native Revenue-officers Regulation, 1794.	Short title given, Act 1 of 1903 ... Rep. (except ss. 12, 13, 16 to 20), s. 13 rep. in pt., Act 16 of 1874. Ss. 16 to 18 rep. in pt., Act 12 of 1876. S. 12 rep., ss. 16, 17, 18, 20 rep. as to recovery of money belonging to the Govt., Ben. Act 7 of 1880. Title rep. in pt., Act 12 of 1891. Title and ss. 16, 17, 18, 20 rep. in pt., s. 19 rep., Act 1 of 1903.	73
1799	5	The Bengal Wills and Intestacy Regulation, 1799.	Short title given, Act 5 of 1897 ... Ss. 5, 6 am., Ben. Reg. 5 of 1827. Ss. 2, 3 rep. in pt., Act 40 of 1858. S. 2 rep. in pt., Act 21 of 1870. Ss. 1, 2, 3, 7, 8 rep. in pt., Act 16 of 1874. Title rep. in pt., Act 12 of 1891. Ss. 2, 3 rep. in pt., s. 7 rep. in pt. and am., Act 1 of 1903.	77
1800	8	The Bengal Revenue-free Lands Regulation, 1800.	Short title given, Act 1 of 1903 ... S. 19 rep. in pt., Act 16 of 1874.	81
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1.—BENGAL REGULATIONS— <i>contd.</i>				
1800	8	The Bengal Revenue free Lands Regulation, 1800— <i>contd.</i>	Rep. (except s. 19), Ben. Act 7 of 1876. Title rep. in pt., Act 12 of 1891.	
..	10	The Bengal Inheritance Regulation, 1800.	Short title given, Act 5 of 1897 ... Extended to Pataspur and Bhograī Parganas in Midnapore District, Ben. Reg. 12 of 1805, s. 36.	83
1801	1	The Bengal Land-revenue Assessment Regulation, 1801.	Short title given, Act 1 of 1903 ... Ss. 12, 13 rep., Ben. Reg. 19 of 1814. Ss. 3, 5 to 7, 11 rep., Ben. Reg. 11 of 1822. Ss. 1, 2, 4, 9, 15 rep., ss. 8, 10 rep. in pt., Act 16 of 1874. S. 14 rep. in pt., Act 12 of 1876. Title, ss. 8, 14 rep. in pt., Act 12 of 1891. Ss. 8, 10 rep. in pt., Act 1 of 1903.	85
1804	10	The Bengal State-offences Regulation, 1804.	Short title given, Act 5 of 1897 ... S. 4 rep. in pt., Act 16 of 1874. Ss. 2, 3 rep. in pt., Act 12 of 1891.	91
1805	12	The Cuttack Land-revenue Regulation, 1805.	Short title given, Act 1 of 1903 ... Am., Ben. Reg. 14 of 1825. S. 31 rep. in pt., Act 10 of 1840. S. 24 rep. in pt., Act 10 of 1859, s. 28. S. 32 rep., Act 16 of 1864. Ss. 12 to 16 rep., Act 16 of 1874. S. 30 rep. in pt., Act 12 of 1891. S. 36 rep. in pt., s. 37 rep., Act 11 of 1893. [See next page.]	97

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1805	12	The Cuttack Land-revenue Regulation, 1905— <i>contd.</i>	Ss. 1, 31 rep. in pt., ss. 2 to 11 rep., ss. 18, 20, 22, 26, 28, 30 am., Act 1 of 1903.	
..	13	The Cuttack Police Regulation, 1805.	Short title given, Act 1 of 1903 ... S. 2 rep. in pt., s. 12 rep., Act 16 of 1874. S. 13 rep. in pt., Act 12 of 1876. S. 13 rep. in pt., Act 11 of 1893. Title and ss. 1, 4 (4) rep. in pt., ss. 3, 4 (4) am., ss. 4 (3), 5, 6, 7, 10, 11 rep., Act 1 of 1903.	107
1806	11	The Bengal Troops Transport and Travelers' Assistance Regulation, 1806.	Short title given, Act 5 of 1897 ... Supplemented, Ben. Reg. 6 of 1825. S. 20 rep., Ben. Reg. 2 of 1811. Rep. as to <i>coolies</i> , Ben. Reg. 3 of 1820. Ss. 9, 11, 12 rep., Act 16 of 1874. Ss. 10, 13 to 19 rep., Act 12 of 1876. Title and ss. 1, 8 rep. in pt., Act 12 of 1891. Ss. 2, 7 rep. in pt., s. 4 (3) am., Act 5 of 1897.	111
1810	19	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.	Short title given, Act 1 of 1903 ... Rep. as to endowments for the support of Mosques, Hindu temples or other religious purposes., Ben. Reg. 17 of 1816, s. 16. Rep. as to provision by Board of Revenue for due repair of public edifices of the description of bridges, <i>sarais</i> and <i>kattras</i> , Act 20 of 1863. [See next page.]	117

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1.—BENGAL REGULATIONS— <i>contd.</i>				
1810	19	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810— <i>contd.</i>	Title and ss. 1, 2, 3, 5, 6, 7, 8, 10, 14, 15 rep. in pt., ss. 3, 4, 8, 9, 12, 13 am., Act 1 of 1903.	
1812	5	The Bengal Land-revenue Sales Regulation, 1812.	Short title given, Act 1 of 1903 ... S. 2 expld., Ben. Reg. 18 of 1812, s. 2. S. 28 rep. in pt., Ben. Reg. 12 of 1824. „ residue rep., Ben. Reg. 7 of 1830. Ss. 5 to 23 rep., Act 10 of 1859. S. 1 rep., ss. 2, 3, 4, 26, 27 rep. in pt., Act 16 of 1874. Ss. 24, 25 rep. in pt., Act 12 of 1876. Ss. 2, 3, 4, 26, 27 rep. (in Eastern Bengal and locally in Western Bengal), Act 8 of 1885. S. 25 am., ss. 26, 27 rep. in pt., Act 1 of 1903.	123
„	11	The Bengal Foreign Immigrants Regulation, 1812.	Short title given, Act 5 of 1897 ... S. 5 rep. in pt., Act 16 of 1874. “Governor General in Council” substituted for “Local Government,” s. 5 (2) am., Act 5 of 1897. S. 2 am., Act 13 of 1898, s. 16. S. 5 am., Act 1 of 1903.	127
„	18	The Bengal Leases and Land-revenue Regulation, 1812.	Short title given, Act 1 of 1903 ... S. 3 (1) rep., Act 16 of 1874. Rep. (in Eastern Bengal and locally in Western Bengal), Act 8 of 1885. S. 3 (2) rep. in pt., Act 12 of 1891. S. 1 rep. in pt., Act 1 of 1903.	131

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1.—BENGAL REGULATIONS— <i>contd.</i>				
1814	29	The Benga Ghatwali Lands Regulation, 1814.	Short title given, Act 1 of 1903 ... S. 3 rep. in pt., s. 5 am., Act 1 of 1903.	133
1816	5	The Bengal Kánungos Regulation, 1816.	Short title given, Act 1 of 1903 ... Ext., Ben. Reg. 1 of 1819, s. 4 (1) Ss. 1, 3 rep. in pt., Act 16 of 1874. Ss. 5, 11 am., s. 10 rep. in pt., Act 1 of 1903.	135
1817	12	The Bengal Patwáris Regulation, 1817.	Short title given, Act 1 of 1903 ... Ext., Ben. Reg. 1 of 1819, s. 4 (2). S. 32 supplemented, Act 20 of 1848. Ss. 2, 4, 5, 6 rep., ss. 9, 11, 27, 31, 32, 33 rep. in pt., Act 16 of 1874. Ss. 8, 13, 15, 16, 17, 30, 33 rep. in pt., ss. 26, 28 rep., Act 12 of 1876. Ss. 31, 35 am., s. 32 rep. in pt., Act 12 of 1891. Title and ss. 1, 23, 27, 29, 30 rep. in pt., s. 18 am., Act 1 of 1903.	141
"	20	The Bengal Police Regulation, 1817.	Short title given, Act 1 of 1903 ... Forms 2, 3, 8, 14 rep., Ben. Reg. 7 of 1829. S. 30 (4) rep., Act 18 of 1835. S. 27 rep., Act 10 of 1859. Ss. 9, 12 to 20, 22 to 26 rep., Act 17 of 1862. S. 21 rep. locally, Ben. Act 6 of 1870, s. 2, as mod. by Ben. Act 1 of 1871, s. 1. [See next page.]	153

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Year.	No.	Short title.	How repealed or otherwise affected in Benga by legislation	Page.
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1817	20	The Bengal Police Regulation, 1817— <i>contd.</i>	Ss. 1 to 8, 10, 11, 29 (10), (11), 30 (3), (6), 31, 33, 34 rep., ss. 29 (1) to (4), (9), 30 (2) rep. in pt., Act 16 of 1874. S. 29 (5) to (8) rep., Act 8 of 1875. Ss. 28, 32 rep., ss. 21 (10), 29 (1) to (4) rep. in pt., Act 12 of 1876. S. 21 rep. locally, Ben. Act 5 of 1887, s. 38. Title and s. 30 (heading) rep. in pt., s. 29 [heading and cl. (12)] am., Forms 1, 4, 5, 7, 9 to 12, 15 to 21 rep., Act 12 of 1891.	
1818	3	The Bengal State-Prisoners Regulation, 1818.	Short title given, Act 5 of 1897 ... Supplemented, Acts 34 of 1850 and 3 of 1858. Ss. 4, 9 rep. in pt., s. 8 rep., Act 16 of 1874. S. 9 am., Act 12 of 1891. S. 4 rep. in pt., Act 1 of 1903.	161
1819	1	The Bengal Kánungos and Patwáris Regulation, 1819.	Short title given, Act 1 of 1903 ... Ss. 1, 2, 3 rep., Act 12 of 1873. Title and s. 4 (5) rep. in pt., Act 12 of 1891. S. 4 am., s. 4 (6) rep. in pt., Act 1 of 1903.	165
	2	The Bengal Land- Revenue Assessment (Resumed Lands) Regulation, 1819.	Short title given, Act 1 of 1903 ... Ss. 11, 12, 13 (3), 14, 19 ext., Ben. Reg. 7 of 1822, s. 19 (2). Ss. 5, 6, 8, 10, 11, 13, 15, 22 am., Ben. Reg. 9 of 1825, s. 5. [See next page.]	171

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1819	2	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819— <i>contd.</i>	Am., Ben. Reg. 14 of 1825, s. 6. Ss. 22 to 24 am., Ben. Reg. 3 of 1828, s. 10. S. 30 rep., Ben. Act 7 of 1862. S. 19 (2) rep., Act 12 of 1873. Ss. 2, 24 (2), 25, 27 rep., ss. 19 (1), 20, 21, 26 rep. in pt., Act 16 of 1874. Ss. 11, 19 rep. in pt., Act 12 of 1876. S. 29 rep., ss. 4, 12 rep. in pt., ss. 6, 12, 26 (2) am., Act 12 of 1891. S. 3 (1) rep. in pt., ss. 13 (3), 14, 21 (2) am., Act 1 of 1903.	
..	8	The Bengal Patni Taluks Regulation, 1819.	Short title given, Act 5 of 1897 ... Supplemented and application of ss. 9, 11, 13, 15 and 17 ext., Ben. Reg. 1 of 1820. S. 9 rep. in pt. and supplemented, Act 25 of 1850. Supplemented, Act 6 of 1853. Ss. 18, 19 rep., Act 10 of 1859. Am., application of s. 13 ext., s. 16 rep., Ben. Act 8 of 1865. Ss. 2, 3 (3), 8 (2), 9, 15 (2) rep. in pt., Act 16 of 1874. Title and preamble rep. in pt., Act 12 of 1891. Ss. 9, 14 (2) am., s. 17 (8) rep. in pt., Act 1 of 1903.	187
1820	1	The Bengal Patni Taluks Regulation, 1820.	Short title given, Act 5 of 1897 ... Am., Ben. Act 8 of 1865, s. 3. S. 2 am. and rep. in pt., Act 1 of 1903.	203

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
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1821	4	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.	Short title given, Act 1 of 1903 ... Ss. 2, 3, 8 (4) rep., Act 12 of 1873. Ss. 7, 8 (3) rep. in pt., Act 16 of 1874. Ss. 1, 8 rep. in pt., ss. 4 to 6 rep., Act 12 of 1876. Title rep. in pt., Act 12 of 1891. Ss. 7, 8 am., Act 1 of 1903.	205
1822	3	The Bengal Board of Revenue Regulation, 1822.	Short title given, Act 1 of 1903 ... Ss. 2, 3, 4 (2), (3) rep., Act 16 of 1874. S. 5 am., Act 12 of 1891. Title and ss. 4 (1), 5 am., Act 1 of 1903.	209
..	7	The Bengal Land-revenue Settlement Regulation, 1822.	Short title given, Act 1 of 1903 ... Portions ext., Ben. Reg. 9 of 1825, ss. 2, 3, 5 (0). Rep. in pt., s. 5 expld., s. 33 supplemented, Ben. Reg. 9 of 1833, ss. 2, 3, 5 to 11. S. 23 (3) rep. in pt., Act 8 of 1835 S. 31 (2) rep. in pt., Act 25 of 1837. Ext., Act 31 of 1858. S. 22 rep., ss. 20 et seq. rep. in pt., Act 10 of 1859. Ext., Act 11 of 1859, s. 60. S. 25 rep., Act 20 of 1865. S. 29 supplemented, Ben. Act 3 of 1868. Ss. 2 (1) to (5) rep., ss. 2 (0), 5 (2), 6 (1), 7 (1), 9 (2), 12 (2), 15, 16, 17, 20 (2), 23 (3), 29 (5), 30, 31 (2), 33 (1) rep. in pt., Act 16 of 1874. [See next page.]	217

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1822	7	The Bengal Land-revenue Settlement Regulation, 1822— <i>contd.</i>	S. 27 rep., s. 29 (1), (5) rep. in pt., Act 12 of 1876. Title rep. in pt., Act 12 of 1891. Title and ss. 1, 7 (1), (6), 29 (1), 31 (2), 33 (1), 35 rep. in pt., ss. 2 (6), 3, 5, 6 (2), 7 (1), 8, 9 (3), 10 (1), (3), (9), 13, 16, 17, 20, 23 (1), 24 (2), 26, 32, 35 am., ss. 5 (1), 6 (4), 7 (4) rep., Act 1 of 1903.	
„	11	The Bengal Government Indemnity Regulation, 1822.	Short title given, Act 1 of 1903 ... Rep. (except ss. 2, 36, 38), Act 12 of 1841. Title rep. in pt., Act 12 of 1891. S. 2 rep., Act 1 of 1903.	249
1823	6	The Bengal Indigo Contracts Regulation, 1823.	Short title given, Act 1 of 1903 ... Supplemented, Ben. Reg. 5 of 1830. Supplemented, and s. 5 (3) rep., Act 10 of 1836. Ss. 7, 8 rep., Act 7 of 1870. Ss. 3 (1), 6 rep. in pt., Act 16 of 1874 Ss. 1, 3 (7) rep. in pt., Act 12 of 1876. Preamble and s. 3 (4), (5), (6), (7), (9) rep. in pt., s. 6 am., Act 12 of 1891. S. 4 (2) rep. in pt., Act 1 of 1903.	253
„	7	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	Short title given, Act 5 of 1897 ... Ss. 2 (3), 5 rep., s. 8 rep. in pt., Act 16 of 1874. Ss. 3, 6, 8 am., Act 5 of 1897. S. 6 rep. in pt., s. 7 rep., Act 1 of 1903.	259

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1.—BENGAL REGULATIONS— <i>contd.</i>				
1825	6	The Bengal Troops Transport Regulation, 1825.	Short title given, Act 5 of 1897 ... S. 5 rep. in pt., Act 12 of 1876. Ss. 2, 4, 5 rep. in pt., Act 1 of 1903.	263
"	9	The Bengal Land-revenue Settlement Regulation, 1825.	Short title given, Act 1 of 1903 ... Ext., Act 11 of 1859, s. 60. S. 5 (9) rep in pt., Act 20 of 1865. Preamble and ss. 2 (1), 3, 8 rep. in pt., s. 9 rep., Act 12 of 1891. Ss. 3, 4, 5 (8), 6, 8 am., s. 5 (10) rep. in pt., Act 1 of 1903.	269
"	11	The Bengal Alluvion and Diluvion Regulation, 1825.	Short title given, Act 5 of 1897 ... Supplemented, Ben. Act 4 of 1868. S. 4 (1) rep. in pt. (in Eastern Bengal and locally in Western Bengal), Act 8 of 1885. S. 5 rep. in pt., Act 1 of 1903.	279
"	13	The Bengal Land-revenue Settlement (Resumed Kánungos and Revenue-free Lands) Regulation, 1825.	Short title given, Act 1 of 1903 ... S. 2 rep. in pt., ss. 4, 5 rep. in pt. and am., Act 12 of 1891. Ss. 2, 3, 5 am., Act 1 of 1903.	283
"	14	The Bengal Revenue-free Lands Regulation, 1825.	Short title given, Act 1 of 1903 .. S. 5 rep., Act 12 of 1873. S. 6 rep. in pt., Act 16 of 1874. Title and ss. 1, 2, 3 (2), (5), (7), 4 rep. in pt., ss. 1, 2, 3, 6 am., Act 1 of 1903.	287
1827	3	The Bengal Corruption and Extortion Regulation, 1827.	Short title given, Act 5 of 1897 ... Rep. (except s. 5), Act 16 of 1874. [See next page.]	293

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Year.	No.	Short title	How repealed or otherwise affected in Bengal by legislation.	Page.
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1827	3	The Bengal Corruption and Extortion Regulation, 1827— <i>contd.</i>	S. 5 rep. in pt., Act 12 of 1876. S. 5 am., Act 1 of 1903.	
"	5	The Bengal Attached Estates Management Regulation, 1827.	Short title given, Act 5 of 1897 ... Ss. 2, 3, 4 rep. in pt., Act 16 of 1874. S. 2 rep. in pt., s. 3 am., Act 1 of 1903.	295
1828	3	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828	Short title given, Act 1 of 1903 ... S. 9 rep., Act 12 of 1873. S. 10 (4), (5) rep. in pt., s. 11 (1) rep., Act 16 of 1874. Title and ss. 1, 10 (2), 12, 13 (1), (2) rep. in pt., ss. 2 to 8 rep., ss. 10 (2), (3), 13 (1) am., Act 1 of 1903. S. 13 (2) rep., Ben. Act 1 of 1905.	299
"	4	The Bengal Land-revenue Settlement Regulation, 1828.	Short title given, Act 1 of 1903 ... S. 2 (4), (2), (3) rep., Ben. Reg. 9 of 1833, s. 4. S. 2 (4) rep. in pt., Act 16 of 1874. S. 1 rep., s. 2 (4) am. and rep. in pt., Act 1 of 1903.	305
1829	1	The Bengal Revenue Commissioners Regulation, 1829.	Short title given, Act 1 of 1903 ... S. 9 (2) rep. in pt., Ben. Reg. 6 of 1831, s. 8. S. 9 (2) residue rep. Ben. Reg. 10 of 1831, s. 4. Ss. 3, 5 rep., Act 16 of 1874. Title and ss. 1, 2 rep. in pt., ss. 6 to 8, 9 (1), 10 rep., Act 1 of 1903.	307
"	17	The Bengal Sati Regulation, 1829.	Short title given, Act 5 of 1897 ... Ss. 4, 5 rep., Act 17 of 1862.	311

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1830	5	The Bengal Indigo Contracts Regulation, 1830.	Short title given, Act 1 of 1903 ... S. 3 rep., Act 16 of 1835. S. 4 rep., Act 3 of 1857. S. 2 rep., Act 8 of 1868. Title and preamble rep. in pt., Act 12 of 1891.	315
1833	9	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	Short title given, Act 1 of 1903 ... Ss. 14, 15 rep., Act 10 of 1859. S. 19 rep., Act 17 of 1873. S. 4 rep., Act 16 of 1874. Title and s. 1 am. and rep. in pt., s. 2 rep., ss. 3, 8, 24, 25 rep. in pt., ss. 12, 13, 16 am., Act 1 of 1903.	317
2.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.				
1836	10	The Bengal Indigo Contracts Act, 1836.	Short title given, Act 1 of 1903 ... S. 5 rep., Act 8 of 1868. S. 1 rep., Act 14 of 1870. Formal words in ss. 2, 3, 4 rep., Act 16 of 1874.	321
„	21	The Bengal Districts Act, 1836.	Short title given, Act 1 of 1903 ... Supplemented, Beng. Act 4 of 1864. Formal words rep., Act 16 of 1874. Am. and rep. in pt., Act 1 of 1903.	323
1841	12	The Bengal Land-revenue Sales Act, 1841.	Short title given, Act 1 of 1903 ... Ss. 3 to 35 rep., Act 1 of 1845. S. 1 rep., Act 14 of 1870. S. 2 rep. in pt., Act 16 of 1874.	325

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1847	9	The Bengal Alluvion and Diluvion Act, 1847.	Short title given, Act 1 of 1903 ... Supplemented, and s. 7 rep., Ben. Act 4 of 1868. S. 8 rep., Act 14 of 1870. Formal words in ss. 2, 3, 5, 6 and 9, and part of s. 4, rep., Act 6 of 1874. S. 1 rep. in pt., Act 12 of 1891. Ss. 4, 5, 6, 9 rep. in pt., Act 1 of 1903.	327
1848	20	The Bengal Landholders' Attendants Act, 1848.	Short title given, Act 1 of 1903 ...	329
1850	23	The Calcutta Land-revenue Act, 1850.	Short title given, Act 1 of 1903 ... S. 3 rep. in pt. and am., Act 15 of 1882, s. 3.	331
"	25	The Forfeited Deposits Act, 1850.	Short title given, Act 5 of 1897 ... S. 1 rep., Act 14 of 1870. Title and preamble rep. in pt., Act 12 of 1891.	335
"	44	The Bengal Board of Revenue Act, 1850.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 14 of 1870.	337
1853	6	The Rent Recovery Act, 1853.	Short title given, Act 5 of 1897 ... S. 10 rep., Ben. Act 8 of 1865. S. 9 rep., Act 12 of 1873. Preamble rep. in pt., Act 12 of 1891.	339
1855	32	The Bengal Embankment Act, 1855.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 14 of 1870.	345

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1855	32	The Bengal Embankment Act 1855— <i>contd.</i>	Rep. (except in the Sundarbanas), Ben. Act 6 of 1873. S. 18 rep. in pt., s. 19 rep., Act 16 of 1874. S. 21 rep. in pt., Act 1 of 1903.	
1856	18	The Calcutta Land Revenue Act, 1856.	Short title given, Act 1 of 1903 ... S. 2 rep., Act 18 of 1869. Preamble and s. 3 rep. in pt., s. 1 rep., Act 12 of 1891.	355.
"	22	The Karatoya Tolls Act, 1856.	Short title given, Act 1 of 1903 .. S. 5 rep. in pt., Act 12 of 1891. S. 4 rep. in pt., Act 1 of 1903.	
1857	13	The Opium Act, 1857	Short title given, Act 1 of 1903 ... S. 1 rep., Act 14 of 1870. S. 2 rep., Act 1 of 1878. Preamble rep. in pt., Act 12 of 1891. S. 3 am., Act 1 of 1911.	357
"	21	The Howrah Offences Act, 1857.	Short title given, Act 1 of 1903 ... Title, preamble, s. 1 and Sch. rep. in pt., Act 16 of 1874. Ss. 25 to 32, 38 , 40 to 45, 47 to 50 rep., Ben. Act 5 of 1876. Ss. 4 to 6, 8, 9, 16 , 17 , 24, 33 to 37, 39, 46 rep., Ben. Act 3 of 1884. S. 54 rep. in pt., s. 58 rep., Act 12 of 1891.	371
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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.

2.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

1857	21	The Howrah Offences Act, 1857— <i>contd.</i>	S. 59 am., Ben. Act 3 of 1897, s. 3. Ss. 54, 57, 59 rep. in pt., s. 55 rep., Act 1 of 1903. S. 59 am. temporarily, Ordinance 1 of 1912.	
1858	31	The Bengal Alluvial Land Settlement Act, 1858.	Short title given, Act 1 of 1903 ... S. 3 rep., Act 1 of 1903.	379
1859	5	The Bengal Ghâtwalî Lands Act, 1859.	Short title given, Act 1 of 1903 ...	381
	10	The Bengal Rent Act, 1859.	Short title given, Act 1 of 1903 ... S. 37 rep., Act 36 of 1890. Ss. 26, 40, 74, 79, 86, 150, 162 rep., Ben. Act 6 of 1862. S. 71 rep. in pt., s. 149 rep., Act 20 of 1865. Ss. 13, 19, 120, 156, 161 rep. in pt., Act 7 of 1870. Ss. 1, 167 rep., Act 14 of 1870. Rep. in Eastern Bengal and locally in Western Bengal, Act 8 of 1885. Forms E, F in Sch. rep., Act 12 of 1891. Ss. 3, 15, 28, 29, 32, 33, 163, 168 rep. in pt., ss. 136, 151 am., Act 1 of 1903.	387
		The Bengal Land-revenue Sales Act, 1859.	Short title given, Act 1 of 1903 ... Supplemented, and ss. 45, 59 rep., Ben. Act 3 of 1862. Supplemented, s. 6 rep. in pt. and am., s. 25 rep., s. 27 am., Ben. Act 7 of 1868. S. 1 rep., Act 14 of 1870.	427

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1859	11	The Bengal Land-revenue Sales Act, 1859— <i>contd.</i>	S. 17 rep. in pt., Ben. Act 3 of 1881. S. 4 rep., s. 53 rep. in pt., Act 12 of 1891. Supplemented, Ben. Act 1 of 1895. S. 18 (proviso) rep. in pt., s. 22 rep. in pt. and am., ss. 32, 33 am., Sch. B rep., Act 1 of 1903.	
	12	The Calcutta Pilots Act, 1859.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 14 of 1870. Ss. 12, 15 rep., Act 10 of 1873. New s. 15 ins., Act 6 of 1883. Ss. 2, 18 am., Act 1 of 1903.	451
1867	19	The Darjeeling (High Court's Jurisdiction) Act, 1867.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 16 of 1874.	457
1871	4	The Coroners' Act, 1871.	S. 42 rep. in pt., Act 9 of 1871 ... S. 7 rep., s. 38 rep. in pt., Act 10 of 1873. S. 2, Sch. I rep., Act 12 of 1873. S. 1 rep. in pt., Act 16 of 1874. S. 1 rep. in pt., ss. 8, 17, 20 am., Act 10 of 1881. S. 3 am., Act 5 of 1889. S. 4 rep. in pt., Act 12 of 1891. Ss. 9, 11, 15, 17, 21, 25, 26, 28, Sch. II., am., s. 18A ins., s. 27 rep., Act 4 of 1908.	461

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1881	7	The Bengal Cess (Amendment No. 1) Act, 1881.	Short title given. Act 1 of 1903 ...	471
..	10	The Coroners' Act, 1881.	Ss. 8, 9 rep., Act 10 of 1882 ... Preamble am., ss. 2, 3, 4 rep., Act 5 of 1889. S. 1 rep. in pt., Act 1 of 1903.	473
..	13	The Fort William Act, 1881.	S. 9 rep., Act 12 of 1891 ... Ss. 1, 5, 7 am., Act 1 of 1903.	475
1883	6	The Calcutta Pilots (Amendment) Act, 1883.	Short title given. Act 1 of 1903 ...	479
1885	8	The Bengal Tenancy Act, 1885.	Ss. 12 (2), 13 (1), (2) am., Act 8 of 1886. Supplemented, Ben. Act 3 of 1895, ss. 20, 28 to 32, 36 (c). Ss. 30 (a), 31, 39 (d), 52, Ch. X, and s. 119 am., ss. 31A, 31B ins., Ben. Act 3 of 1896. Certain transfers under ss. 12, 13, 17 or 18 validated, provisions of those sections as to fees am., s. 106 am., Ben. Act 1 of 1903.	491
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1886	8	The Bengal Tenancy (Amendment) Act, 1886.	Short title given, Act 1 of 1903	607
1887	12	The Bengal, Agra and Assam Civil Courts Act, 1887.	<p>S. 23 (a) rep., Act 7 of 1889</p> <p>S. 23 (b) rep., Act 8 of 1890.</p> <p>S. 2 rep. in pt., Act 12 of 1891.</p> <p>S. 1 (1), 25 am., s. 8 (1) rep. in pt., 16 of 1911.</p>	611
1889	5	The Coroners (Madras) Act, 1889.	<p>Short title given, Act 11 of 1901</p> <p>S. 3 (1) rep., Act 12 of 1891.</p> <p>S. 4 (1) rep., Act 5 of 1898.</p> <p>Preamble am., Act 1 of 1903.</p>	623

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1893	11	The Tributary Mahals of Orissa Act, 1893	Preamble and s. 1 rep. in pt., s. 2 and Sch. rep., Act 1 of 1903.	633
1897	5	The Amending Act, 1897	Title, preamble, s. 1 rep. in pt., ss. 2 (1), 3, Sch. I rep., Act 1 of 1903. Sch. II rep.— (as to Act 1 of 1882 and Ben. Act 1 of 1889), Act 6 of 1901, (as to Ben. Act 1 of 1883)— (in Western Bengal), Ben. Act 3 of 1909 ; (in Eastern Bengal), E. B. & A. Act 1 of 1910.	635
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1911	1	The Opium (Amendment) Act, 1911.	767
"	16	The Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.	769
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1873	5	Bengal Eastern Frontier Regulation, 1873. ¹	Ss. 8 to 10 rep., Reg. 1 of 1880 ... Preamble rep. in pt., Act 1 of 1903.	779
1881	3	The Chittagong Hill tracts Frontier Police Regulation, 1881.	"Superintendent" substituted for "Deputy Commissioner," Reg. 1 of 1900, s. 4 (1). S. 1 rep. in pt., Act 1 of 1903.	783
1900	1	The Chittagong Hill tracts Regulation, 1900.	S. 20 rep., Act 1 of 1903 ...	789

4.—ORDINANCE MADE UNDER SECTION 23 OF THE INDIAN COUNCILS, ACT, 1861

(24 & 25 VICT., c. 67)

1912	1	The Bengal Cotton Gambling Ordinance, 1912.	
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¹ This short title was given by Notification No. 13, dated the 11th October, 1873, in Gazette of India, 1875, Pt. I, p. 529.

THE BENGAL CODE.

VOLUME I.

BENGAL REGULATIONS, LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 & 34 VICT., c. 3), AND THE ORDINANCE MADE UNDER THE INDIAN COUNCILS ACT, 1861 (24 & 25 VICT., c. 67).

PART I.—BENGAL REGULATIONS IN FORCE IN THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

BENGAL REGULATION 1 OF 1793

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793).

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BENGAL REGULATION 1 OF 1793

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793).¹

(1st May, 1793.)

A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

1. The following articles of the Proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor General in Council to the *zamindars*, independent *talukdars* and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal, [*Bihar and Orissa*,] are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the Proclamation. Preamble.

PROCLAMATION.

2. *Article I.*—In the original Regulations for the decennial settlement of the public revenues of Bengal, [*Bihar and Orissa*,] passed for those Provinces, respectively, on the 18th September, 1789, [*the 25th November, 1789, and the 10th February, 1790*,] it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the *jama* assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise. Decennial settlement declared conditionally permanent by original Regulations.

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see post, p. 640.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see ss. 1 to 3.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 3 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the district of Jalpaiguri—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), post p. 790.

OTHER ENACTMENTS RELATING TO LAND-REVENUE.—For a comprehensive view of the several enactments relating to land-revenue which are printed in this Code, see the head "Land-revenue" and cross-references therefrom, in the Index at the end of Vol. IV. Other enactments on the subject which are in force in Bengal are:—

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| <ul style="list-style-type: none"> (1) the Property in Land Act, 1837 (4 of 1837); (2) the Landholders' Public Charges and Duties Act, 1853 (2 of 1853); (3) the Waste Lands (Claims) Act, 1863 (23 of 1863); (4) the Land Improvement Loans Act, 1883 (19 of 1883) (exemption from land-revenue of improvements made with aid of loans granted by the Government); (5) the Revenue Recovery Act, 1890 (1 of 1890); (6) the Code of Civil Procedure (Act 5 of 1908), s. 5 (application of the Code to Revenue Courts). | } | <p>printed in General Acts, 1884-87, Ed. 1909.</p> <p>ditto, 1879-86, Ed. 1909.</p> <p>ditto, 1887-97, Ed. 1909.</p> <p>ditto, 1904-09, Ed. 1909.</p> |
|--|---|---|

THE BENGAL PERMANENT

[Ben. Reg.]

(Secs. 3-6.)

Power to declare *jama* assessed upon lands under those Regulations, fixed for ever

3. Article II.—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all *zamindars*, independent *talukdars* and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, [*Bihar and Orissa*.] that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the *jama*, which has been or may be assessed upon their lands under the Regulations above-mentioned, fixed for ever.

Jama assessed upon lands of proprietors with whom settlement concluded, fixed for ever.

4. Article III.—The Governor General in Council accordingly declares to the *zamindars*, independent *talukdars* and other actual proprietors of land with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever.

Jama hereafter agreed to by proprietors whose lands are held *khas*, or let in farm, fixed for ever.

5. Article IV.—The lands of some *zamindars*, independent *talukdars* and other actual proprietors of land, having been held *khas*, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor General in Council now notifies to the *zamindars*, independent *talukdars* and other actual proprietors of land whose lands are held *khas* that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever:

and he declares to the *zamindars*, independent *talukdars* and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

Jama of lands belonging to Government, but transferred to individuals, fixed for ever.

6. Article V.—In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

SETTLEMENT REGULATION, 1793.

1 of 1793.]

(Sec. 7.)

7. Article VI.—It is well known to the *zamindars*, independent *talukdars* and other actual proprietors of land, as well as to the inhabitants of Bengal, [*Bihar and Orissa*,] in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the *raiyats*.

Assessment in former times liable to variation at discretion of Government.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the *zamindars*, independent *talukdars* and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent *talukdars* and *raiyats*, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

Conduct to be observed by proprietors towards dependent *talukdars* and *raiyats*.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent *talukdars* and *raiyats*, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no

No claims for remissions or suspensions.

(Sec. 8.)

claims or application for suspensions or remissions, on account of drought, inundation or other calamity of seasons, will be attended to, but that in the event of any *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

Sale of lands
for arrears.

18. Article VII.—To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the *zamindars*, independent *talukdars* and other actual proprietors of land :—

Regulations
for protection
of *raiyats*, etc.

First.—It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent *talukdars*, *raiyats* and other cultivators of the soil ; and no *zamindar*, independent *talukdar* or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Right of Gov-
ernment to
all internal
duties,

Second.—The Governor General in Council having, on the 28th July 1790, directed the *sâir* collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition ; and he now declares that, if he should hereafter think it proper to re-establish the *sâir* collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

and to *jama*
on alienated
lands.

Third.—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The assessment so imposed will belong to Government and no proprietor of land will be entitled to any part of it.

Resumption
of police
allowances to
proprietors.

Fourth.—The *jama* of those *zamindars*, independent *talukdars* and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their *jama*, for keeping up *thanas* or police establishments, and also of the produce of

¹ For a restriction upon section 8, see the Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798 (19 of 1798), s. 6, *post*, p. 54.

I of 1793.]

(Sec. 8.)

any lands which they may have been permitted to appropriate for the same purpose, and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country.

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors not to add such allowances, or the produce of such lands, to the *jama* of the proprietors of land, but to collect the amount from them separately.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first Article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears¹ which have accrued or may accrue on the fixed *jama* that has been or may be assessed upon their lands under the above mentioned Regulations for the decennial settlement: provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands under the said Regulations of the 15th July, 1791.

Estates of
disqualifie
proprietor
not liable
sale for
arrears.

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first Article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed *jama* that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first Article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed *jama* which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

¹ But see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), s. 28A (in Vol. II of this Code), which authorizes the sale of estates, etc., for arrears of revenue which have accrued while the estates were under the charge of the Court of Wards.

(Secs. 9, 10.)

Proprietors
may transfer
lands without
sanction of
Government.

9. Article VIII.—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the *zamindars*, independent *talukdars* and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid:

Provided.

Provided that they be conformable to the Muhammadan or the Hindu laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Rules for
apportioning
fixed *jama* on
portions of
estates in
event of sale
or transfer
and on shares
of estates

10. Article IX.—From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed *jama* assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed *jama* with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the

¹ Section 10 is supplemented by the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 85; and its application is extended by—

the Bengal Inheritance Regulation, 1793 (11 of 1793), s. 4, *post*, p. 42, and
the Bengal Leases and Land Revenue-regulation, 1812 (18 of 1812), s. 3 (2), *post*,
p. 182.

So much of s. 10 of the present Regulation as relates to the adjustment of the Government *jama* on lands exposed to public sale in satisfaction of decrees was repealed by Act 4 of 1846, s. 1.

I of 1793.]

(Sec. 10.)

public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessments in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector¹ of the revenue of the *zila* in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed *jama*, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the *jama* charged thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector¹ of the revenue of the *zila* or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this Article (which are conformable to the principles of the existing Regulations), that if any *zamindar*, independent *talukdar* or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent *taluk*, the *jama* which may be stipulated to be paid by the dependent *talukdar* will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to effect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned, being

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

(Sec. 10.)

exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce¹ as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.¹

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the *jama* at which they may be so purchased, for ever.

Second.—When a portion of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce¹ as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.¹

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce¹ as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.¹

The actual produce¹ of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the *jama* at which they may be so purchased, for ever: and the remainder of the public *jama*, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third.—When a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or

¹ As to the meaning of "actual produce," see the Bengal Land-revenue Assessment Regulation, 1801 (2 of 1801), s. 8, *post*, p. 85.

I of 1793.]

(Sec. 11.)

more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce¹ as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.¹

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors, shall hold them at the *jama* at which they may be so transferred, for ever: and where only a portion of such estate shall be transferred, the remainder of the public *jama* which will consequently be payable by the former proprietor of the whole estates² on account of the lands that may remain in his or her possession shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed *jama* assessed upon the whole of the estate divided may bear to the whole of its actual produce.¹

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the *jama* which may be so assessed upon them, for ever.

^{11.} *Article X.*—The following rules are prescribed respecting the adjustment of the assessment on the lands of *zamindars* independent *talukdars* and other actual proprietors of land, whose lands are or may be held *khas* or let in farm in the event of their being disposed of by public sale, or transferred, by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

Adjusting
jama of lands
held *khas* or
let in farm.

First.—If the whole, or a portion of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above-mentioned, and whose lands are or may be held *khas* or let in farm, shall be exposed

¹ As to the meaning of "actual produce," see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post* p. 85.

² See in Clarke.

³ The application of s. 11 is extended by the Bengal Inheritance Regulation, 1793 (11 of 1793), s. 4, *post*, p. 42.

So much of s. 11 as relates to the adjustment of the Government *jama* on lands exposed to public sale in satisfaction of debts was repealed by Act 4 of 1846, s. 1.

(Sec. 11.)

to public sale in one or in two or more lots (pursuant to the decree of a Court of Justice), such lands, if *khas*, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions:—

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the land so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the *jama* to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second.—If a *zamindar*, independent *talukdar* or other actual proprietor of land, whose lands are or may be held *khas* or let in farm, shall transfer by private sale, gift or otherwise, the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held *khas*), or from the farmer (if the lands are let in farm), the *malikana* to which the former proprietor was entitled on account of the land so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the *zamindars*, independent *talukdars* or other actual proprietors of land mentioned in the fourth Article, whose lands are held *khas*, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be held applicable to them.

Third.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held *khas* or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the *zamindars*, independent *talukdars* and other actual proprietors of land specified in the fourth Article, whose lands have been let in farm or are

1 of 1793.]*(Sec. 11.)*

held *khas* in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be considered applicable to them.

BENGAL REGULATION 2 OF 1793

(THE BENGAL LAND-REVENUE REGULATION, 1793).

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BENGAL REGULATION 2 OF 1793

(THE BENGAL LAND-REVENUE REGULATION, 1793).¹

(1st May, 1793.)

A Regulation for abolishing the Courts of *Mal Adalat* or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of *Diwani Adalat*; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.

1. In the British territories in Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands; it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture. Preamble.

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these provinces.

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the natives as are not of that persuasion are, from habit or necessity, in a similar predicament.

The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Schedule III.—see *post*, p. 640.

LOCAL EXTENT.—This Regulation was passed for the former Province of Bengal—see paragraph 1 of the Preamble.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the district of Jalpaiguri—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed *post*, p. 790.

PARTIAL REPEAL.—So much of this Regulation as requires the appointment of *diwans* in the different districts, or defines the duties of the *diwans*, or relates in any other manner, directly or indirectly, to those offices, was repealed by Bengal Regulation 15 of 1813. Specific references in the Regulation to *diwans* were repealed by the Repealing Act, 1874 (16 of 1874), and have been omitted—see foot-notes, *post*.

(Sec. 1.)

the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them.

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these provinces.

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever.

These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government.

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the *raiyats* or tenants for each *bigha* of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed, was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

(Sec. 1.)

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their *rai-yats*, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of *Mâl Adîlat* or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to these Courts from their irregular, summary, and often *ex parte* proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the Revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders.

The Revenue-officers must be deprived of their judicial powers.¹

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants.

The Collectors of the Revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the

¹ This clause, and some of the preceding clauses of this preamble, are obsolete, in consequence of the repeal of parts of this Regulation by later enactments which are noted *post*.

(Secs. 2-6.)

public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected.

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

2. (*Abolition of Courts of Mal Adalat.*) Rep. by the Repealing Act, 1873 (12 of 1873).

Collectors of Revenue.

3. The collection of the revenue payable to Government from the estates in each *zila* is to be committed, as heretofore, to a civil covenanted servant of the Company, who is to be styled Collector of the Revenue¹ of the *zila* to which he may be appointed

Collectors subject to Board of Revenue.

4. The Collectors¹ are to correspond with the Board of Revenue,³ and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation⁴ and also to all instructions which the Board of Revenue³ may hereafter transmit to them.

Seals of Collectors.

5. The Collectors¹ of the several *zilas* are to use a circular seal one inch and-a-half in diameter.

The seals of the Collectors¹ in Bengal [*and Orissa*] are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, [*and the seals of the Collectors in Bihar a similar inscription, in the Persian character and language, and the Hindustani language and Nagri character*]: "The seal of the Collector¹ of the *zila* of"

Collectors to keep diary.

6. The Collectors¹ are to keep a regular diary of their official transactions, either in the English, Persian or Bengali language, recording and attesting them with their official signature at the time they may take place.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² The second sentence of s. 3, as to oaths, which was repealed by the Repealing Act, 1873 (12 of 1873), is omitted.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

⁴ The words and figures "published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

2 of 1793.]

(Secs. 7, 8.)

7. The duties prescribed in the following section are to be performed by the Collectors,¹ under the superintendence of the Board of Revenue.² Duties of Collectors.

8. *First.*—To collect the amount of the fixed revenue assessed upon the land of the *zamindars*, independent *talukdars* or other actual proprietors of land with or on behalf of whom a settlement has been or may be concluded. Nature of duties.

Second.—To collect the stipulated annual revenue from the farmers of estates let in farm.

Third.—To levy the rents and revenue from estates held *khas*.

Fourth.—To make the future settlement of *khas* or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose.

Fifth.—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

Sixth.—To pay the pensions and allowances included in the public revenue and the pensions and compensations granted in consequence of the abolition of the *sâir*.

Seventh.—To execute the instructions which may be issued to them by the Court of Wards regarding disqualified landholders and their estates.

Eighth.—To superintend the division of landed property paying revenue to Government which may be ordered to be divided into two or more distinct estates.

Ninth.—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

Tenth.—To collect the tax on spirituous liquors and intoxicating drugs or articles.³

Eleventh and Twelfth.—To procure lands for native invalid soldiers; to collect the police tax.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Thirteenth.—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them * * * *

Fourteenth.—To transmit such annual, monthly or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue,² or any officer under that Board empowered to require such accounts.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

³ For the enactments relating to Excise in force in Bengal, see the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and the Eastern Bengal and Assam Excise Act, 1910 (E. B. & A. Act 1 of 1910), in Vol. III of this Code.

⁴ The words and figures "by any Regulation published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

(Secs. 9-13.)

Fifteenth.—To conform to all special orders that have been or may be issued to them by the Board of Revenue,¹ or by public officers empowered to issue such orders.

Native officers
to obey orders
of Collector.

9. * * * all Native officers under the Collector³ are to act agreeably to his orders and such rules as he may prescribe.

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the Collector,³ the Board of Revenue¹ or the Governor General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorized act.

Collectors not
to employ
private ser-
vants in pub-
lic matters.

10. The Collectors³ are prohibited from employing, directly or indirectly, their private servants, whether *banias* or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government.

This prohibition, however, is not meant to restrict them from occasionally employing their assistants * * *⁴ or their inferior public servants in the cases and in the manner in which they are authorized to make use of their agency.

Appointment
and removal
of Native
cash-keepers.

11. The *khazanchi* or Native cash-keeper in each *zila* is to be nominated by the Collector,³ who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge.

The Collector³ is to transmit the names of the person whom he may nominate to the office of *khazanchi*, and of his surety, with a copy of the engagement executed by the latter, to the Board of Revenue¹; but the person so nominated shall not be considered as appointed until the Board of Revenue¹ shall have signified their approbation both of him and his surety.

The Native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved at the satisfaction of the Board of Revenue¹; and he and the Collector³ shall be held jointly and severally responsible to Government for the public money committed to their charge.

12. (*Form to be observed in issuing public money.*) Rep. by Act 25 of 1854.

Appointment
and removal
of Native
servants.

13. ⁵ *The appointment and dismissal of all Native public servants on the establishments of the Collectorships (the*

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in footnote to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

² The words "The *diwan* and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁴ The words "or *diwan*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ These words in italics were repealed by Ben. Reg. 5 of 1804, s. 3, but are printed here for convenience of reference.

2 of 1793.

(Secs. 14-19.)

keepers of the Native records and the khazānchi excepted, are vested in the Collectors.

But they are to transmit to the Board of Revenue¹ regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.

14. In the event of the death or removal of a Collector² or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector * * ³, and the public officers of the Collectorship are accordingly to obey his orders.

In absence of Collector, senior Assistant to officiate.

15. No Collector,² Assistant * * ⁴ to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the *zila*, either as farmer, surety or otherwise; and Native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector² may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

Collectors and their officers prohibited being concerned extra-officially in revenues.

16. The rules in the preceding section, however, are not to be considered to prohibit a * * ⁵ Native officer of a Collector², or any private servant of a Collector² or of an Assistant, from purchasing *bonâ fide* the proprietary right in lands situated in the *zila*, by private sale.

Bonâ fide purchases of land at private sale by Collector's officers, etc.

17. (*Prohibition against giving land to Europeans.*) Rep. by the Repealing Act, 1868 (8 of 1868).

18. No Collector²,⁶ [or] Assistant * * ⁴ shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

Collectors and their Assistants prohibited from trading.

This prohibition, with regard to Collectors and their Assistants, is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.

19. (*Diwans prohibited from lending money to proprietors of land.*) Rep. by the Repealing Act, 1873 (12 of 1873).

¹ As to the exercise of functions of the Board of Revenue by other authorities, see reference cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 34 (1), *post*, p. 210.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ The words "and the *diwan*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "or *diwan*," which were repealed by the Repealing Act, 1871 (16 of 1874), are omitted.

⁵ The words "*diwan* or other," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ This word "or," in s. 18, was inserted by the Repealing and Amending Act, 1903 (1 of 1906), Sch. II - see *post*, p. 741.

(Secs. 20-32.)

Collectors to
keep records.

20. The Collectors¹ are to be careful that the accounts and records of their respective *zilas* are kept complete and duly preserved.

21, 22. (*Rules for rendering zilas compact, and prohibition against employing sepoy in collection of revenue.*) Rep. by the Repealing Act, 1874 (16 of 1874).

23. (*Restriction on advances of takavi.*) Rep. by the Land Improvement Act, 1871 (26 of 1871).

Collectors not
to exercise
authority be-
yond limits of
their *zilas*
without
orders.

24. The Collectors¹ are prohibited deputing any person into the *zila* of any other Collector, or exercising any authority beyond the limits of their respective *zilas*, excepting in cases in which they may be authorized so to do * * *² by special orders from a competent authority.

Rule with
regard to
receipts.

25. The Collectors¹ are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received * * *³.

The keepers of the Native records are to keep a register of these receipts regularly numbered.

After having registered the receipts they are to attest on the face of them the date on which they may be registered.

A copy of this register is to be transmitted monthly to the Board of Revenue,⁴ or as often as that Board may require.

A similar register of receipts is to be kept by all *tahsildars*, *sazawals* or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector¹ monthly or as often as he may require.

Register of
receipts for
salaries, etc.

26. The monthly or other receipts, for salaries, pensions or allowances, of whatever kind, which may be paid by the Collectors,¹ are to be deposited amongst the public records of their respective *zilas*, and a register of them is to be kept by the keepers of the Native records * * *⁵.

27. (*Collectors resigning or removed not to quit station without sanction.*) Rep. by the Repealing Act, 1874 (16 of 1874).

28, 29. (*Collectors to be subordinate to a Board of Revenue; its constitution.*) Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

30 to 32. (*Power of Board over officers under them, and rules regarding deputations.*) Rep. by the Repealing Act, 1874 (16 of 1874).

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 24, *post*, p. 248.

² The words and figures "by a Regulation published in the manner directed in Regulation 41, 1793, or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words "and the species of rupee in which each payment may be made," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ As to exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

⁵ The words "A copy of the register is to be transmitted annually to the Board of Revenue," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

2 of 1793.]

(Secs. 33-37.)

¹**33.** The Board of Revenue² are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent *talukdar*, under-farmer or *raiyat*, or any Native officer employed under a Collector,³ for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary.

In what cases Board may require personal attendance of Natives.

In such cases the Board² are to direct the Collector³ to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board² are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector,³ by the process prescribed for the recovery of arrears of revenue.

But the Board of Revenue² are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a *rakil*.

34, 35. (*Execution of Board's orders, and powers of Members.*) Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

36. The Board of Revenue² are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be *khas*, in conformity to the Regulations and any special instructions which may be prescribed to them by the 'Local Government'.

Powers of Board as to settlement of lands held *khas*.

37. In all cases of a settlement being made with or on behalf of *zamindars*, independent *talukdars* or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue.

Security for payment of revenue.

But, where lands are let in farm, a *malzamin*, or surety for the punctual discharge of the revenue, is to be invariably required.

¹ For power to require the attendance before Collectors of purchasers at public sales, and of landholders and native inhabitants generally, see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 10, *post*, p. 87.

For power to fine proprietors and farmers of land for not attending before Collectors, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 329.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (2), *post*, p. 210.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sec. II, *post*, p. 741.

(Secs. 38-45.)

Remissions.

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the ¹[Local Government].

Settlements to be made by Collectors.

39. It is to be observed as a general principle that the settlement of lands that are or may be *khas* is to be made by the Collectors² under the regulations and the instructions of the Board of Revenue.³

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the ¹[Local Government] with their reasons for recommending it.

Procedure on settlement being concluded.

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue³ are to issue the usual *bandobasti parwana* to the proprietor or farmer, without applying to the ¹[Local Government] for ⁴[its] sanction for that purpose.

Collection of revenue.

41. The collection of the revenue is committed to the Collectors²; but the Board of Revenue³ are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors² for any delay or deficiency.

The power of coercion over the proprietors and farmers of land is also vested in the Collectors,² as prescribed in Regulation 14, 1793.⁵

Temporary suspensions.

42. The Board³ are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay to the ¹[Local Government], with their reasons for the measure. But they are not to grant any suspensions beyond the current year.

Remissions of balances.

43. No remissions of balances are to be granted without the special authority of the ¹[Local Government].

44. (*Accounts to be furnished to Governor-General.*) *Rep. by the Land Improvement Act, 1871 (26 of 1871).*

Duty of Board to furnish accounts, etc.

45. The Board of Revenue³ are to furnish the ¹[Local Government] with such annual, monthly or other accounts as they now are or may be required to submit to ⁶[it].

They are likewise to observe all special orders which they have received or may receive from the ¹[Local Government].

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post* p. 248.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

⁴ The word "his", in the original text, is to be read as if the word "its" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

⁵ Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act.

⁶ The word "him", in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

(Secs. 46-70.)

46, 47. (*Prohibitions to be observed by Board, and acknowledgment for places restored to foreign powers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

48. (*Separate accounts of expenses for reducing rebellious zamindars and others.*) Rep. by the Repealing Act, 1873 (12 of 1873).

49 to 70. (*Rules for conducting the business of Board, and powers of President.*) Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

BENGAL REGULATION 8 OF 1793

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793).

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- 16 to 18. (*Repealed.*)
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34. Allowances of *kázis* and *kanungos*, and public pensions, to be added to the *jama*.
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36. Also exclusive of *lákhiraj* lands.
37. But not of *málikána* lands in Bihár, or other lands in Bengal and Midnapore.
38. (*Omitted.*)
39. *Nánkár, khamar, nij-jot* and other private lands of proprietors in Bengal and Orissa to be annexed to be *málguzári* lands.
40. Consolidation of *málguzári* and private lands also in certain *taluks*.
41. *Chákarán* annexed to *málguzári* lands.
42. (*Repealed.*)
43. Procedure in case of landholders declining to engage for *jama* proposed to them.
- 44 to 48. (*Repealed.*)
49. Certain *istimrardars* not liable to increase of rent.
50. Exception to above.
51. Rules to prevent undue exactions from *talukdars*.
52. Power of actual proprietors to let remaining lands as they think proper.
53. Lands so let not to be taken charge of without *amilnana*.
54. Process to prevent imposition on *raiyats* under denomination of *abwáb, mathat*, etc.
55. Proprietors and farmers of land prohibited imposing new *abwáb* or *mathat* on *raiyats*.

30 THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793.

[Ben. Reg. 8 of 1793.]

SECTION.

56 to 63. (*Repealed.*)

64. Adjustment of *mufassal kistbandis*.

65. Bar to engagements contrary to Regulation.

66. Landholders, etc., not to interfere in matters coming within cognizance of Courts or Magistrates.

67. *First to Fourth.*—(*Repealed.*)

Fifth.—Collector to attend to spirit of Regulation, where not applicable to particular districts.

Sixth.—(*Repealed.*)

68 to 101. (*Repealed.*)

BENGAL REGULATION 8 OF 1793

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793).¹

(1st May, 1793.)

A Regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the *zamindars*, independent *talukdars* and other actual proprietors of land, in Bengal, [*Bihar and Orissa*], passed for those Provinces, [*respectively*], on the 18th September, 1789; [*the 25th November, 1789; and the 10th February, 1790,*] and subsequent dates.

1 to 3. (*Re-enactment of code of rules passed on 23rd November, 1791; term of settlement; to be perpetual with approbation of Court of Directors.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

4. The settlement, under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether *zamindars*, *talukdars* or *chaudhris*. Settlement with whom to be concluded.

5 to 12. (*What talukdars to be actual proprietors; payment of rent through actual proprietors; what talukdars to be lease-holders; jangalbari talukdars; proprietors of malguzari aima lands; rules for guidance of Collectors; right of dissatisfied parties to sue in Court of Diwani Adalat.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

13. *Talukdars* ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the *zamindars* or other actual proprietors of estates as heretofore. Payment of revenue by talukdars ordered to be separated.

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sec. III.—*see post*, p. 640.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see the title*. It was declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri district—*see Vol. IV, Pt. IV*.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed *post*, p. 790.

SEPARABLE TALUKS.—The rules regarding separable *taluks*, contained in Bengal Regulation 8 of 1793, are not applicable to any new *taluk* constituted since the period of the Decennial Settlement—*see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 14, post*, p. 68.

(Secs. 14-20.)

Separated
talukdars
where to pay
revenue.

14. *Talukdars* who, in consequence of the rules in sections 5 and 9¹ may be separated from the *zamindars* or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's² treasury; except in districts where, from the number of *taluks*, or other cause, this mode would be attended with considerable inconvenience, in which case *tahsildars*, or Native Collectors, are to be appointed to receive the revenue of the *taluks* in such districts.

Tahsildars.

15. *Zamindars* or other actual proprietors of land, from whose *zamindaris* or estates *taluks* may be separated, shall not be appointed *tahsildars* to receive the revenue of the *taluks* so separated, but the office of *tahsildar* shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

16 to 18. (*Rules respecting mukarrari leases and mukarraridars.*) Rep. by the Repealing Act, 1876 (12 of 1876).

Istimrardars
to be considered
as *patta*
talukdars.

19. *Istimrardars*, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, * * *³ but hold them of the proprietors on *patta* or lease, are to be considered as a species of *patta talukdars*, and the settlement is to be made with them as hereafter specified.

Exceptions to
general order
for conclusion
of decennial
settlement
with actual
proprietors
of soil.

20. The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, include the following descriptions of persons; females (excepting those whom the⁴ [Local

¹ Sections 5 and 9 were repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act. The sections are as follow:—

"5. First.—The *talukdars* to be considered the actual proprietors of the lands composing the *taluks* are the following:—

Second.—*Talukdars* who purchased their lands by private or at public sale, or obtained them by gift from the *zamindar* or other actual proprietor of land to whom they now pay the revenue assessed upon their *taluks*, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the *zamindar*, or *sanads* from the *khalas*, making over to them his proprietary rights therein.

Third.—*Talukdars*, whose *taluks* were formed before the *zamindar* or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the *zamindari*.

Fourth.—*Talukdars*, the lands comprised in whose *taluks* were never the property of the *zamindar* or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

Fifth.—*Talukdars* who have succeeded to *taluks* of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance, from the former proprietor of such *taluks*.

"9 The rules in section 5, respecting *taluks*, have also been extended to *aima* lands liable to the payment of a fixed quit revenue, denominated *mdlguzari aimas*; and, agreeably to the distinctions laid down in that section, it has been ordered, that such *mdlguzari aima* tenures as are held under grants of the Muhammadan government previous to the Company's accession to the *Diwani*, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of *talukdars* who are proprietors of the lands composing their *taluks*. But *mdlguzari aima* tenures which may appear to have been *bona fide* granted for the purpose of bringing waste-lands into cultivation shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting *jangalbari taluks*."

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 248.

³ The words and figures "as the *mukarraridars* mentioned in section 18 are supposed to have done," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

of 1793.]

(Secs. 21-26.)

Government] may judge competent to the management of their own estates), minors, idiots, lunatics or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature: * * * provided, however, with regard to the whole of these descriptions, that they are not partners in the *zamindaris*, independent *taluks* or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned.

21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by ²[the Local Government] * * * ³.

Management of lands of disqualified proprietors.

22. A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held *khas*, for a period of three years, at the discretion of the Collector.⁴

Exception as to proprietors of land in balance to Government and unable to pay arrears.

23 to 25. (*Settlement of undivided estates possessed by several proprietors; appointment of manager; when guardians of proprietors may vote in choice of manager; nomination of manager by Collector.*) Rep. by Ben. Reg. 17 of 1805.

26. The determination of the majority of the proprietors present, under the restrictions specified in section 23¹, is also to be binding on the remainder, in agreeing or disagreeing to the *jama* proposed for undivided estates. The sharefs, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

Determination of agreement to *jama* of undivided estates.

¹The words "and persons whom the Governor General in Council may deem disqualified on account of their contumacy or notorious profligacy of character," which were repealed by Ben. Reg. 7 of 1796, s. 2, are omitted.

²The word "Government," in the original text, is to be read as if the words "the Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

³The words "in the mode prescribed in Regulation 10, 1793, which also contains rules for the selection and conduct of such managers, as well as regarding the provision to be made for the support of the proprietors," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *post*, p. 248.

⁵Section 23 was repealed by Ben. Reg. 17 of 1805. It ran as follows:—

"23. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a *sarbarahkar* or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, is to be binding on the remainder in the choice of a manager; and, when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue."

(Secs. 27-35.)

Settlement of land standing in joint names of several proprietors, or of one for many.

27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

28, 29. (*Settlement of mortgaged lands; settlement when proprietors are not forthcoming.*) Rep. by the Repealing Act, 1876 (12 of 1876).

Settlement of disputed estates.

30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

If no claimant has been previously in possession.

31. If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the *Diwani Adalat* of the *zila*: but, if they should not agree to a manager, the lands are to be held *khas*, and the surplus produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

Settlement in cases of disputes as to boundaries.

32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the *Diwani Adalat*, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

33. (*Rules for fixing assessment.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Allowances of *kazis* and *kanungos*, and public pensions, to be added to the *jama*.

34. The allowances of the *kazis* and *kanungos* heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the *jama*, and in future paid by the Collectors¹ of the revenue of the several *zilas*, on the part of Government, under the rules and restrictions laid down for their guidance, with regard to such payments, in the Resolutions passed by the Governor General in Council on the 10th June, 1791, and re-enacted with modifications, by Regulation 24, 1793.²

Assessment to be fixed exclusive of *sair*, with exceptions.

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections known under the general denomination of *sair*; the collections made in the *ganies*, *hâts* and *bazars* situated within the limits of the town of Calcutta³ excepted, and excepting also the collections confirmed to the proprietors and holders of *ganies*, *bazars* and *hâts* by the Resolutions passed by the Governor General in Council on the 11th of June, 1790.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² Ben. Reg. 24 of 1793 was repealed by the Pensions Act, 1871 (23 of 1871).

³ As to Calcutta, see the Calcutta Land-revenue Act, 1850 (23 of 1850), *post*, p. 331.

⁴ The second sentence of s. 35, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

of 1793.]

(Secs. 36-41.)

36. The assessment is also to be fixed exclusive and independent of all existing *bikhirai* lands, whether exempted from the *khiraj* (or public revenue) with or without due authority.

Also exclusive of *lakhiraj* lands.

37. The above exemption, however, is not meant to include [the *malikana* lands in Bihar, or] the *nankar*, *khamar*, *nij-jot* and other private lands of the *zamindars* and independent *talukdars* or other actual proprietors of land in Bengal and Midnapore, regarding which the following rules have been prescribed.

But not of *malikana* lands in Bihar, or other lands in Bengal and Midnapore.

38. [*Malikana* lands in Bihar to be re-annexed. Omitted, as being inapplicable to Bengal.]

39. The *nankar*, *khamar*, *nij-jot* and other private lands appropriated by the *zamindars*, independent *talukdars* and other actual proprietors of land in Bengal [and Orissa] to the subsistence of themselves and families shall be also annexed to the *malguzari* lands, and the ten years' *jama* fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands, above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue,¹ that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the *Diwani* to the Company, and have hitherto been permitted to keep possession of them, whenever their *zamindaris* or estates have been held *khas* or let in farm, but not otherwise.

Nankar, *khamar*, *nij-jot* and other private lands of proprietors in Bengal and Orissa to be annexed to the *malguzari* lands.

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 41.²

40. The above consolidation of the *malguzari* and private lands is also to be made in the *taluks* continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the *talukdars*, but in order to make the whole of the lands composing their *taluks* answerable for their proportion of the public assessment allotted thereon.

Consolidation of *malguzari* and private lands also in certain *taluks*.

41. The *chakaran* lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in section 36. The whole

Chakaran annexed to *malguzari* lands.

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post* p. 210.

² Section 44 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act. The section ran as follows:—

"44. Proprietors who may finally decline engaging for the *jama* proposed to them, and whose lands may consequently be let in farm or held *khas* are to receive *malikana* (an allowance in consideration of their proprietary rights at the rate of 10 per cent. on the said *jama* of their lands, if let in farm, or at the same rate on the neat collections from their lands, if held *khas*, viz., on the neat amount realized by Government, after defraying the *malikana* as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto."

(Secs. 42-50.)

of these lands in each Province are to be annexed to the *mālguzāri* lands and declared responsible for the public revenue assessed on the *zamindaris*, independent *taluks* or other estates in which they are included, in common with all other *mālguzāri* lands therein.

42. (*Engagements for the jama to be for sicca rupees.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Procedure in case of land-holders declining to engage for jama proposed to them.

43. In the event of any proprietor declining to engage for the settlement of his lands at the *jama* proposed to him, the Collector¹ is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.²

That Board² is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held *khās*, as the Board of Revenue² may in each instance think most expedient.

44 to 47. (*Proprietors refusing to engage for the jama to receive malikāna; rules respecting payment of malikāna and enforcement of payment from farmers.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

48. (*Settlement by proprietors with talukdars under them.*) *Rep. by the Repealing Act, 1876 (12 of 1876).*

Certain *istimrardars* not liable to increase of rent.

49. It is to be understood, however, that *istimrardars* (*mukarraridars*) of the nature of those described in section 18³ who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the *zamindar* or other actual proprietor of land, should he engage for his own lands.

With regard to such *istimrardars* also as have not held their lands at a fixed rent for so long a period, if the *zamindar* or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

Exception to above.

50. This last restriction imposed on the *zamindar* or other actual proprietor of land, in section 49, is not to be

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4. (*I*), *post*, p. 210.

³ Section 18 was repealed by the Repealing Act, 1876 (12 of 1876), but this reference is saved by the proviso to that Act. The section ran as follows:—

"18. *Mukarraridars* holding lands of which they are not the actual proprietors and whose *mukarrari* grants have been obtained since the Company's accession to the *Diwani*, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

In cases, however, where such *mukarraridars* have been in possession of their *mukarraris* for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the *jama* at which they held the lands and that which may be now agreed to by the actual proprietors, added to the net produce of the authorized *sair*, resumed or abolished."

of 1793.]

(Secs. 51-54.)

considered to preclude the officer of Government or farmer, in the event of the *zamindari* being held *khas* or let in farm, from assessing such *istimrardars* according to the general rate of the district.

¹ 51. The following rules are prescribed to prevent undue exaction from the dependent *talukdars* :—

Rules to prevent undue exactions from *talukdars*.

First.—No *zamindar* or other actual proprietor of land shall demand an increase from the *talukdars* dependent on him; although he should himself be subject to the payment of an increase of *jama* to Government; except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the *talukdar* holds his tenure; or that the *talukdar*, by receiving abatements from his *jama*, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Second.—If, in any instance, it be proved that a *zamindar* or other actual proprietor of land exacts more from a *talukdar* than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.

² 52. The *zamindar* or other actual proprietor of land is to let the remaining lands of his *zamindari* or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following :

Power of actual proprietors to let remaining lands as they think proper.

² 53. No person contracting with a *zamindar*, independent *talukdar* or other actual proprietor or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an *amilnama*, or written commission, signed by such *zamindar*, independent *talukdar* or other actual proprietor.

Lands so let not to be taken charge of without *amilnama*.

² 54. The impositions upon the *raiya*s, under the denomination of *abwab*, *mathat* and other appellations, from their number and uncertainty having become intricate to adjust,

Process to prevent imposition on *raiya*s under denomination of *abwab*, *mathat*, etc.

¹ Notwithstanding anything contained in s. 51 of this Regulation, certain dependent *talukdars* and other persons are not to be liable to enhancement of rent—see the Bengal Rent Act, 1859 (10 of 1859), s. 15, *post*, p. 390.

Nothing in s. 51 is to affect any settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822)—printed *post*, p. 217, or under any other law for the time being in force for the regulation of settlements of land-revenue—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

Ss. 51 to 55, 64 and 65 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *post*, p. 492), in the whole of the former Province of Bengal “except the town of Calcutta, the Division of Orissa and the Scheduled Districts.” The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notification extending the Act of 1885 to the Jalpaiguri district the repeal has taken effect in that district.

² As to the local repeal of ss. 52 to 54, see the foot-note to s. 51, immediately above.

(Secs. 55-64.)

and a source of oppression to the *raiyats*, all proprietors of land and dependent *talukdars* shall revise the same, in concert with the *raiyats*, and consolidate the whole with the *assal* into one specific sum.

In large *zamindaris* or estates the proprietors are to commence this simplification of the rents of their *raiyats* in the *parganas* where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end of the Bengal year 1198 in the Bengal districts, [and of the *Fasti* and *Wilayati* year 1198 in the Bihar and Orissa districts,] these being the periods fixed for the delivery of *pattas*, as hereafter specified.

Proprietors and farmers of land prohibited imposing new *abwab* or *mathat* on *raiyats*.

55. No actual proprietor of land and dependent *talukdar* or farmer of land, of whatever description, shall impose any new *abwab* or *mathat* upon the *raiyats* under any pretence whatever.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new *abwab* or *mathat* have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56. 57. (*Variations of pattas according to articles of produce; what pattas delivered to raiyats shall contain.*) Rep. by the Repealing Act, 1876 (12 of 1876).

58. (*Forms of pattas.*) Rep. by the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), s. 3.

59. 60. (*Right of raiyats to demand pattas; existing leases to remain in force until period of expiration; restriction on cancelling pattas of khudkast raiyats.*) Rep. by the Repealing Act, 1876 (12 of 1876).

61. (*Time allowed for delivery of pattas to raiyats.*) Rep. by the Repealing Act, 1874 (16 of 1874).

62. (*Rules regarding patwaris.*) Rep. by the Bengal Patwaris Regulation, 1817 (12 of 1817), as extended by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (2).

63. (*Proprietors to give receipts for rent or revenue received, and not to demand rent of absconded raiyats from those who remain.*) Rep. by the Repealing Act, 1874 (16 of 1874).

Adjustment of *mufassal kistbandis*.

64. The proprietors of land, dependent *talukdars* and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under-renters and *raiyats*, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

i.e., the 1st April, 1792.

¹ As to the local repeal of ss. 55 and 64, see foot-note ¹ on p. 87, ante.

of 1793.]

(Secs. 65-101.)

65. No proprietor of land or dependent *talukdar* shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation.

Bar to engagements contrary to Regulation.

66. *Zamin-dars*, independent *talukdars* and other actual proprietors of land, dependent *talukdars*, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and *rai-yats*, are prohibited from taking cognizance of, or interfering in, matters, or causes coming within the jurisdiction of the Courts of Civil Judicature, * * * or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award.

Landholders, etc., not to interfere in matters coming within cognizance of Courts or Magistrates.

67. *First to Fourth.* (Restrictions in the *kabuliyats* to be in force; proprietors entitled to sell or mortgage their estates from date of settlement; rules regarding recovery of arrears from *rai-yats*; withdrawal of police jurisdiction from proprietors.) Rep. by the Repealing Act, 1876 (12 of 1876).

Fifth.—In the original rules above-mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector³ should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary.

Collector to attend to spirit of Regulation, where not applicable to particular districts.

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority.

Sixth.—(Settlement under Regulations in force prior to the original rules for the decennial settlement.) Rep. by the Repealing Act, 1876 (12 of 1876).

68 to 101. (Special orders for Bengal, Bihar, Midnapore and Salt Districts.) Rep. by the Repealing Act, 1874 (16 of 1874.)

¹ As regards s. 65, it should be noted that the portion of the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), s. 3, which was repealed by the Repealing Act, 1874 (16 of 1874), rescinded "such parts of Reg. 8 of 1793 . . . as declare that engagements for rent contracted in any other mode than that prescribed by the Regulation . . . shall be deemed to be invalid."

As to the local repeal of s. 65, see foot-note ¹ on p. 37, *ante*.

² The words "or the Courts of Circuit," which were repealed by the Repealing and Amendment Act, 1903 (1 of 1903), are omitted.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *post*, p. 248.

BENGAL REGULATION 11 OF 1793

(THE BENGAL INHERITANCE REGULATION, 1793).¹

(1st May, 1793.)

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.

1. A custom, originating in considerations of financial convenience, was established in these Provinces under the Native Administrations, according to which some of the most extensive *zamindaris* are not liable to division. Preamble.

Upon the death of the proprietor of one of these estates it devolves entire to the eldest son, or next heir of the deceased, to the exclusion of all other sons or relations.

This custom is repugnant both to the Hindu and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question were the established laws of inheritance allowed to operate with regard to them as well as all other estates.

It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste land comprised in them.

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules :

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 640.

LOCAL EXTENT.—This Regulation was declared by the Laws Local Extent Act, 1874 (16 of 1874), section 6 (printed in General Acts, 1863-78, Ed. 1909, p. 468), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri district—*see* Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post* p. 790.

SAVING.—This Regulation does not supersede or affect any established usage by which the succession to landed estates devolves upon intestacy to a single heir—*see* the Bengal Inheritance Regulation, 1800 (10 of 1800), *post*, p. 88, and the Cuttack Land-revenue Regulation, 1806 (12 of 1806), s. 86, *post*, p. 106.

(Secs. 2-4.)

Descent of
landed
property
after 1st
July, 1794.

2. * * * ¹ if any *zamindar*, independent *talukdar* or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how
held on death
of actual
proprietor.

3. If any *zamindar*, independent *talukdar* or other actual proprietor of land shall die * * * ² without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in ³[section 2] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more, or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in ⁴[the Estates Partition Act, 1876], and such sharer or sharers shall have the separate possession of such share or shares accordingly.

Ben. Act 8 of
1876.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held
separate how
assessed.

4. * * * ⁵ if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public *jama* charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 10, Regulation 1, 1793.⁶

If the estate is held *khas* or let in farm, the provisions contained in section 11, Regulation 1, 1793,⁶ regarding estates

¹ Words and figures as to dates, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

² The words and figures "subsequent to the period specified in section 2," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The word and figure "section 2" in s. 3 were substituted for the words "that section" by the Amending Act, 1891 (12 of 1891), Sch. II—see the General Acts, 1887-97, Ed. 1909, p. 336.

⁴ These words and figures in square brackets in s. 3 were substituted for the word and figures "Regulation 25, 1793," by the Amending Act, 1891 (12 of 1891), Sch. II—see the General Acts, 1887-97, Ed. 1909, p. 336. Ben. Act 8 of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Ben. Act 5 of 1897), and this reference should now be construed as a reference to the latter Act—see s. 2 (2) thereof, in Vol. III of this Code.

⁵ The reference to Rég. 8 of 1793, in s. 4, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

⁶ The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 8.

of 1793.]

(Sec. 5.)

so circumstanced which may be divided, will be applicable to it.

5. Nothing contained in this Regulation is to be construed to . . . ¹ prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper:

Saving of
bequests and
transfers.

Provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those Laws and Regulations respectively do or may require.

¹ Portions of ss 5 and 6 which were repealed by the Repealing Act, 1874 (16 of 1874), with the effect of running the two sections into one, have been omitted

BENGAL REGULATION 19 OF 1793

[THE BENGAL REVENUE FREE LANDS (NON-BADSHAHI GRANTS) REGULATION, 1793].

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- 49.

BENGAL REGULATION 19 OF 1793

[THE BENGAL REVENUE-FREE LANDS (NON-BADSHAHI GRANTS) REGULATION, 1793].¹

(1st May, 1793.)

A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed *badshahi* or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every *bigha* of land (demandable in money or kind, according to local custom), unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter.

Preamble.

As a necessary consequence of this law, if a *zamindar* made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the dues of Government without its sanction.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 723.

LOCAL EXTENT.—This Regulation was declared by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), ss. 17 and 21 (printed *post*, pp. 97, 102), to be in force, with modifications, in the *Parganas* of Pataspur and Bograi in the district of Midnapore in Bengal.

It was afterwards declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 2, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed *post*, p. 790.

OTHER ENACTMENTS.—Further Regulations dealing with revenue-free lands are the Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1798 (37 of 1798), *post* p. 68, the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), *post*, p. 81, the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825 (18 of 1825) *post*, p. 283, and the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825) *post*, p. 287. The latter Regulation modifies Ben. Regs. 19 and 37 of 1798—see its first section, *post* p. 287.

The rules prescribed in Ben. Regs. 19 and 37 of 1798, for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of the Government—see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 4, *post*, p. 178.

(Sec. 1.)

Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution.

Previous, however, to the Company's accession to the *Diwani*, numerous grants of this description were made, not only by the *zamindars*, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses.

Of these grants some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies.

In conformity to the principles which prevailed under the Native Administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of the Company's accession to the *Diwani*, without their sanction, illegal and void.

Their lenity, however, induced them to adopt it as a principle that grants of this description made previous to the date of the *Diwani*, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination.

But no complete register of these exempted lands having been formed upon the Company's accession to the *Diwani*, nor subsequent to that period, many *zamindars*, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the *zamindars* refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation to make grants of extensive tracts of land to others, or in the names of their relations or dependents, for their own use, dating the deeds for these alienations previous to the Company's accession to the *Diwani*, or procuring them to be registered in the *zamindari* records as having been alienated prior to that period.

Others have made such alienations without ante-dating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question.

The Governor General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire: and as the proprietors of estates were not entitled to

[of 1793.]

(Sec. 1.)

collect such of the public dues from the lands included in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount in both cases being excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793,¹ that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* or public revenue, with or without due authority; and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,² which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property.

It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and, to obviate all injustice or extortion in the inquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue, the following rules, containing the rules passed

¹ The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 81.

² The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 8.

(Sec. 2.)

on the 1st December, 1790, with modifications, have been enacted:

Validity of
grants of
alienated land
made before
and after
12th August,
1765.

2. First.—All grants for holding land exempt from the payment of revenue made previous to the 12th August, 1765, the date of the Company's accession to the *Diwani*, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and *bond fide* obtained possession of the land so granted previous to the date above-mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Reference of
doubtful
claims to
Governor
General in
Council.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the *Diwani*, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the [Local Government], to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the [Local Government], the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted shall be heard by any *Zila* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a² competent jurisdiction within the twelve years * * * * *

No persons,
not being
original
grantees,
entitled to
hold lands
free of
revenue.

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 7A.

² *Sic* in Clarke.

³ The words and figures "and proceeded in it, as required by section 14, Regulation 3, 1798," in s. 2, cl. (2), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

of 1793.]

(Sec. 2.)

revenue, under a grant made previous to the Company's accession to the *Diwani*, the writing for which may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only according to the ancient usages of the country.

Fourth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the *Diwani*, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs
of present
possessors.

Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise; unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the *Diwani*, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the ¹[Local Government], to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to ²[it] proper.

Fifth.—The present possessors of lands now exempt from the payment of revenue, under such life-grants made previous to the *Diwani*, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void.

Present pos-
sors pro-
hibited from
transferring
or mortgaging
grants

It is to be understood, however, that if any such life-grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 741.

² The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 741.

(Sec. 3).

to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause.

If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life-grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the ¹[Local Government], to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the ¹[Local Government] is to decide accordingly.

All grants made or confirmed since *Dinani* declared invalid

3. First.—All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1763, and previous to the 1st December, 1790, corresponding with the 18th *Aghan*, 1197, Bengal era, [the 10th *Aghan*, 1198, *Fasli*], the 18th *Aghan*, 1198, *Wilayati*, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Courts how to proceed in case of doubt of authority of officer confirming grant

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the ¹[Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the ¹[Local Government] shall decide accordingly.

Exception in favour of grants made by chiefs of provincial councils.

Third.—The rule contained in clause first is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178² or the [*Fasli* or] *Wilayati* year 1179 [according as the land may be situated in Bengal, Bihar or Orissa,] under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

And also of certain grants made for religious or charitable purposes.

Fourth.—Nor to authorize the subjecting to the payment of revenue any land the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of the Bengal year 1178² or the [*Fasli* or] *Wilayati* year 1179 [according as the land may be situated in Bengal, Bihar or Orissa,] where the quantity of land granted

¹The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

²*i.e.*, the 13th April, 1770.

of 1793.]

(Secs. 4, 5.)

shall not exceed ten *bighas*, and the produce of it is *bond fide* appropriated as an endowment on temples, or to the maintenance of *Brahmins*, or other religious or charitable purposes.

The rule in this clause is declared to extend also to all grants of land whatever, not exceeding ten *bighas*, made previous to the *Divani*, the produce of which may be now so appropriated.

4. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise.

Disputes regarding proprietary right.

Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of *Divani Adalat*, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors.

The grantees, or the present possessors, until dispossessed by a decree of the *Divani Adalat*, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates or dependent *taluks* (according as the land may exceed or be less than one hundred *bighas* as specified in sections 6, 7 * *¹), subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected *khas*), under the rules for the decennial settlement.

If by the decision of the *Divani Adalat* the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.

5. By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him.

Effect of continuing proprietary right to grantee in possession.

Where the grant may have been made before the Bengal year 1178² or the [*Fasli* or] *Wilayati* year 1179, the proprietor will hold his land as an estate paying a fixed revenue of

¹ The word and figures "and 21", in s. 4, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

² i. e., the 18th April, 1770.

(Secs. 6-8.)

only half the amount assessed on other *mālguzāri* lands in the country;

and, where the grant may have been made subsequent to the above-mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.

To whom
revenue
assessed on
lands, not
exceeding
100 *bighas*,
alienated
before
1st December,
1790, is to
belong.

6. The revenue assessable under section 9 on land not exceeding one hundred *bighas* of the measurement that may prevail in the *pargana* wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent *taluk* in which the land may be situated, notwithstanding anything said in section 8, Regulation 1. 1793¹:

and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement under which he may pay the revenue of such estate or dependent *taluk*, when the land may be so adjudged liable to the payment of revenue.

If the estate or dependent *taluk* shall be held *khāsi*, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or *taluk* may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer.

The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent *taluk*.

Revenue on
lands
exceeding 100
bighas,
alienated
prior to 1st
December,
1790, to
belong to
Government.

7. The revenue assessable under section 8 on land exceeding one hundred *bighas* of the measurement that may prevail in the *pargana* wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government.

The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent *taluks*.

Rules for
assessment
under
section 7.

8. *First*.—The amount of the revenue payable from the lands specified in section 7 is to be adjusted according to the following rules:

If grant made
previous to
Bengal year
1178, or [*Fasli*
or] *Wilayati*
year 1179.

Second.—If the grant shall have been made previous to the Bengal year 1178¹ or the [*Fasli* or] *Wilayati* year 1179 [(according as the lands may be situated in Bengal, Bihar or Orissa),]

¹ The Bengal Permanent Settlement Regulation, 1798. It is printed *ante*, p. 3
² i. e., the 18th April, 1770.

of 1793.]

(Sec. 9.)

the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the *pargana* of a similar description may be assessed.

If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such *rasad* or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated lands, as the Board of Revenue¹, with the sanction of the² [Local Government], may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the *jama* required of him, and the other moiety by Government; or by such other mode of investigation as the Collector,³ with the sanction of the Board of Revenue¹, may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules prescribed in Regulation 8, 1793.⁴

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

Third.—If the grant shall have been made subsequent to the Bengal year 1178⁵ or the [Fasl or] Wilayati year 1179 [(according as the lands may be situated in Bengal, Bihar or Orissa),] the revenue or *jama* to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation 8, 1793⁴, for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause.

If grant made after that time.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this

Rule for fixing revenue on land specified in section 6.

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), post, p. 210.

² The words "Governor-General in Council" in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 741.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 86, post, p. 248.

⁴ The Bengal Decennial Settlement Regulation, 1798. It is printed ante, p. 81.

⁵ i.e., the 18th April, 1770.

(Secs. 10.)

difference, that the proprietor, farmer, dependent *talukdar* or officer of Government to whom the revenue may be payable shall ascertain the produce of the lands without subjecting the grantee to any expense, and submit the accounts of it to the Collector¹, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue², who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount.

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent *taluk*, subject to the payment of such fixed revenue for ever.

Grants made since 1st December, 1790, declared void.

³ 10. All grants for holding land exempt from the payment of revenue whether exceeding or under one hundred *bighas*, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the [Governor General in Council or the Local Government,] are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it.

*And every person who now possesses, or may succeed to, the proprietary right in any estate or dependent taluk, or who now holds or may hereafter hold any estates or dependent taluk in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluk held, khas is authorized and required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or taluk in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government;*⁴

nor shall any such proprietor, farmer or dependent *talukdar* be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or *taluk* when the grant may be so resumed and annulled.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation 1822, (3 of 1822), s. 4 (1), *post*, p. 210.

³ For a saving of s. 10, see the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 8, *post*, p. 276.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Governor General in Council or the Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

⁵ So much of s. 10 as authorises and requires proprietors and farmers of estates and dependent *taluks* (in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790) "of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or *taluk* in which it may be situate" has been repealed by the Bengal Rent Act, 1858 (10 of 1858), s. 28, printed *post*, p. 398.

of 1793.]

(Secs. 11-15.)

The managers of the estates of disqualified proprietors, and of joint-undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.

11. Proprietors or farmers of land, or dependent *talukdars*, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estates, farms or *taluks*, are to institute a suit for the recovery of it in the Court of *Diwani Adalat*. How proprietors and farmers to recover revenue on lands specified in section. 6.

Any proprietor or farmer of land, or dependent *talukdar*, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured.

Where estates or dependent *taluks* may be held *khas*, the right of suing for the recovery of the revenue from the lands specified in section 6 is to be considered as vested in the party to whom the collections from the estate or *taluk* may be payable.

If the estate or *taluk* be held *khas* by Government, the *tahsildar* or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the Collector¹.

12 to 14. (*Suits by Collectors for the recovery of invalid takhiraaj.*) Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).

15. The Collectors¹ of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue; and such suits, and the suits which the Board of Revenue² may direct the Collector¹ to institute, are to be defended and prosecuted by the *vakil* of Government under the instructions of the Collector¹; Suits by or against Government.

and in the event of Government being cast, either wholly or in part, or if the Collector¹ shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793,³ and the other sections in that Regulation respecting decisions given against a Collector in any *Zila* Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

³ Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference saved by the proviso to that Act.

(Secs. 16-20.)

and in the event of the Board of Revenue¹ not deeming it proper to order an appeal against the decision of the *Zila Court* to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the *Sadar Diwani Adalat*, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons, in both cases, for not preferring the appeal, to the² [Local Government], who will direct the cause to be appealed, or not, in either case as may appear to³ [it] proper.

16. (*Courts to award costs in cases of groundless prosecution.*) Rep. by the Bengal Land-revenue Assessment (*Resumed Lands*) Regulation, 1819 (2 of 1819).

Grants forged or altered in any respect or ante-dated, declared void.

17. If it shall appear to any Court of Judicature during the course of a trial that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been ante-dated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.

18. (*Persons concerned in fraud liable to criminal prosecution.*) Rep. by the Repealing Act, 1874 (16 of 1874).

19. (*Revenue to be paid from date of first decree for resumption.*) Rep. by the Bengal Land-revenue Assessment (*Resumed Lands*) Regulation, 1819 (2 of 1819).

Transfer of grants.

20. Grants of land, which from the terms of the grant or the nature of the tenure are hereditary, and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise;

and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector⁴ within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 1 (1), *post*, p. 210.

² The words "Governor-General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

³ The word "has," in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 741.

⁴ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

of 1793.]

(Secs. 21-27.)

the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

21, 22. (*Payment of revenue where to be made; register of lands held exempt from revenue prior to 1st December, 1790.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

23. (*Form for periodical Register.*) Rep. by the Repealing Act, 1868 (8 of 1868).

24. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred *bighas*, in virtue of grants made previous to the 1st December, 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector¹ of the revenue of the *zila* in which the lands may be situated.

Time for registry of grants.

25. (*Publication to be made, requiring all persons to register grants.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

26. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector,¹ if the land shall exceed one hundred *bighas*, shall proceed to assess the lands accordingly; and, if it shall be under one hundred *bighas*, the party to whom the revenue of the land may be payable under section 6 is empowered to assess the lands as therein directed.

Lands not registered within prescribed time.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue² are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

27. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the

Grants not registered within prescribed period, etc., invalid.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(1), *post* p. 210.

60 THE BENGAL REVENUE-FREE LANDS (NON-BADSHAHI GRANTS) REGULATION, 1793.

[Ben. Reg. 19 of 1793.]

(Secs. 28-49.)

register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26.

Effect of
registry of
lands.

28. It is expressly declared, however, that the registry of grants under this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue.

Any person will be at liberty to sue him in the *Diwani Adalat* for the former, and he will be liable to be sued for the recovery of the latter by the Collector¹ with the sanction of the Board of Revenue² in the event of it appearing to that Board that the lands are liable to the payment of revenue.

29 to 34. (*Preparation of registers; counterpart registers; entries regarding exempted lands and documents respecting same.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

35. (*How separations and annexations of exempted lands are to be notified to the Courts.*) Rep. by the Repeating and Amending Act, 1903 (1 of 1903).

36 to 46. (*Registers of intermediate resumptions, and periodical registers; correction of errors in same; registry of disputed grants; liability of holders of grants to furnish information; to whom copies of periodical registers are to be sent; penalty for receiving bribes in connection with the registry of grants.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

Rules respect-
ing life-grants
applicable to
grants for a
term.

47. All the rules in this Regulation respecting lands now held, or that may be claimed to be held, exempt from the payment of revenue, under life-grants made previous to the date of the Company's accession to the *Diwani*, are to be considered equally applicable to grants made previous to that date for a term only.

Saving of
grants made
or confirmed
by late super-
intendents of
the *bazi-*
zamin daftar;
and of *bad-*
shahi grants.

48. No part of this Regulation is to be considered to annul any grants for holding land exempt from the payment of revenue, made or confirmed by the late superintendents of the *bazi-zamin daftar* in Bengal, in virtue of the powers vested in them.

49. Nor to extend to *jagir*, *altamgha*, *mudadmash*, *aima* or other grants of land termed *badshahi* or royal, and held, or stated to be held, under a royal *farman*.

The rules applicable to such grants are contained in Regulation 37, 1793.³

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822) s. 86, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

³ The Bengal Revenue-free Lands (*Badshahi Grants*) Regulation, 1793. It is printed *post*, p. 68.

BENGAL REGULATION 37 OF 1793

[THE BENGAL REVENUE-FREE LANDS (BADSHAHÍ GRANTS) REGULATION, 1793].

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BENGAL REGULATION 37 OF 1793

[THE BENGAL REVENUE-FREE LANDS (BADSHAHI GRANTS)
REGULATION, 1793].¹

(1st May, 1793.)

A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold *altamgha*, *jaglr* and other lands exempt from the payment of public revenue, under grants termed *badshahi* or royal, and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every *bigha* of land, unless it transfers its right thereto for a term or in perpetuity. Preamble.

As a necessary consequence of this law every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void.

Had the validity of such grants or alienation been admitted it is obvious that the public revenue would have been liable to gradual diminution.

Under the Native Government grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908, (1 of 1908), Sch. I—see *post*, p. 723.

LOCAL EXTENT.—This Regulation was declared, by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s. 25 (printed *post*, p. 102), to be in force, with modifications, in the *Parganas* of Pataspur and Bograi in the district of Midnapore in Bengal.

The Regulation was afterwards declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (in General Acts, 1868-78, Ed. 1908, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jaipalguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed *post*, p. 790.

OTHER ENACTMENTS.—Further Regulations dealing with revenue-free lands are the Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793 (19 of 1793), *ante*, p. 47, the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), *post*, p. 81, the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1819 (2 of 1819), n. 4, *post*, p. 173, and the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), *post*, p. 287.

The rules prescribed in Regulations 19 and 37 of 1793 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of Government—see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), n. 4, *post*, p. 173.

AMENDMENTS.—Ben. Reg. 13 of 1825 modifies Ben. Reg. 37 of 1793 (see s. 5 of the former Regulation, *post*, p. 286); and Ben. Reg. 14 of 1825 modifies Ben. Regs. 19 and 37 of 1793 (see s. 1 of the former Regulation, *post*, p. 287).

(Sec. 1.)

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the *Diwani*, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the *Diwani*, nor subsequent to that period, many persons have retained possession of lands under fabricated or ante-dated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793¹, that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhirai* lands, whether exempted from the *khiraj* or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,² which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them.

With this view, and to obviate all injustice or extortion in the inquiry into the titles of persons possessing lands under such grants, he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this

¹ The Bengal Decennial Settlement Regulation, 1793. Section 36 is printed *ante*, p. 35

² The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 3.

of 1793.]

(Sec. 2.)

Regulation) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue under *badshahi* grants, the following rules, containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted.

2. *First.*—*Altamgha, jagir, aima, madaadmash* or other *badshahi* grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the *Diwani*, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government.

Badshahi
grants made
before
Diwani.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a *badshahi* grant made previous to the date of the Company's accession to the *Diwani*, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the ¹[Local Government], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the ¹[Local Government], the Court is to decide accordingly.

Procedure in
case of doubts
as to authority
of officer
having re-
sumed grants.

No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 742.

(Sec. 3.)

the claim may be instituted, shall be heard by any *Zila* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years

Persons not being original grantees not entitled to hold lands free;

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a *jagir* or other grant made previous to the Company's accession to the *Diwani*, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs of persons now possessing exempted lands under life-grants made previous to *Diwani*.

Fourth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a *jagir* or other *badshahi* life-grant made previous to the *Diwani* to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Present possessors not to transfer or mortgage grants.

Fifth.—The present possessors of lands now exempt from the payment of revenue under such *jagir* or other life-grants made previous to the *Diwani* and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made are declared illegal and void.

Certain grants made or confirmed since *Diwani* declared invalid.

3. First.—All *badshahi* grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Procedure in cases of doubt of authority of officer confirming grant.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the ² [Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or

¹The words and figures "and proceeded in it as required by section 14, Regulation 3, 1798," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

²The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

of 1793.]

(Secs. 4-10.)

otherwise, and the Court, upon receiving the determination of the ¹[Local Government], shall decide accordingly.

4. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under *badshahi* grants, and whether Government is entitled to resume or retain such revenue or otherwise.

Questions regarding proprietary right to be determined in *Diwani Adalat*.

Every dispute or claim regarding the *zamindari* or proprietary right in lands included in any grant is to be considered as a matter of a private nature between the contending parties, and is to be determined in the *Diwani Adalat*.

5. When a *jagir* or other life-grant shall escheat² to Government, the Collector³ is immediately to attach the revenue of the lands and report the circumstance to the Board of Revenue,⁴ who are to obtain the orders of the ¹[Local Government] regarding the resumption of the grant.

Collectors to attach revenue of lands in escheated grants.

6. When any *badshahi* grant shall be resumed or expire, or escheat² to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation 8, 1793;⁵ with the person possessing the *zamindari* or proprietary right in the lands, whoever he may be.

Assessment lands included in resumed grants.

If the proprietor shall refuse to pay the *jama* demanded of him, the land shall be held *khas* or let in farm, as directed in that Regulation.

7 to 9. (*Suits by Collectors for the recovery of invalid lakhiraj.*) Rep. by the Bengal Land-revenue Assessment Regulation, 1819 (2 of 1819).

10. Any person having a claim to hold lands paying revenue exempt from the payment of revenue under a *badshahi* grant must institute his claim against Government, who alone can be the defendant in such suits, in the *Diwani Adalat* of the *zila*, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed *badshahi*, in virtue of Regulation 19, 1793;⁶

Suits against Government by persons claiming to hold lands paying revenue exempt from revenue under *badshahi* grants.

The Collectors³ of the revenue are to defend all such suits as may be instituted against Government, and such suits, and the suits which the Board of Revenue⁴ may direct the Collector³ to institute, are to be defended or prosecuted by the *vakil* of Government, under the instructions of the Collector³;

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

² As to the duties of the Board of Revenue in respect of escheats, see the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (18 of 1810), s. 7, *post*, p. 118.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4(1), *post*, p. 219.

⁵ The Bengal Decennial Settlement Regulation, 1798. It is printed *ante*, p. 81.

⁶ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 47.

(Secs. 11-15.)

and in the event of Government being cast, either wholly or in part, or if the Collector¹ shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793² and the other sections in that Regulation respecting decisions given against a Collector in any *Zila* Court in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue³ not deeming it proper to order an appeal from the decision of the *Zila* Court to be preferred * * * * * to the *Sadar Diwani Adalat*, * * * * * they are to report their reasons * * * for not preferring the appeal to the ⁷ [Local Government], who will direct the cause to be appealed or not, in either case, as may appear to ⁸ [it] proper.

11. (*Courts to award costs in case of groundless prosecution.*) *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

Grants forged
or altered in
any respect,
or ante-dated,
declared void.

12. If it shall appear to any Court of Judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that date of the grant has been changed or that the grant has been ante-dated, the grant shall be adjudged null and void.

13. (*Persons concerned in frauds liable to criminal prosecution.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

14. (*Revenue to be paid from date of first decree of resumption.*) *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

Transfer of
grants.

15. *Altamgha, aima* and *madadmash* grants are to be considered as hereditary tenures.

These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

⁴ The words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The words "in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ The words "in both cases," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁷ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

⁸ The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

of 1793.]

(Secs. 16-22.)

Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

Jajirs are to be considered as life-tenures only, and with all other life-tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

16 to 18. (*Record of lands which may become liable to, or exempt from, the payment of revenue; register of badshahi grants; form of periodical register.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

19. All persons actually holding lands exempt from the payment of public revenue under *badshahi* grants, and whether made or confirmed by the Government of the country for the time being, or by whatever authority, shall be allowed one year, from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the Revenue¹ of the *zila* in which the lands may be situated.

Time for registry.

20. (*Publication to be made, requiring all persons to register grants.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

21. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government.

Grants not registered within prescribed time liable to resumption.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue² are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

22. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time,

Grants not registered considered forfeited.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

and which may not be subsequently admitted on the register by the Governor General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement.

Effect of
registry of
grants.

23. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant.

Any person will be at liberty to sue in the *Diwani Adalat* for the former, and he will be liable to be sued for the resumption of the grant by the Collector¹, with the sanction of the Board of Revenue², in the event of it appearing to that Board that the grant is invalid.

24. (*Preparation of register upon expiration of period limited for registry of grants.*) Rep. by the Land Registration Act, 1876 (B. n. Act. 7 of 1876).

25. (*Preparation of second periodical register.*) Rep. by the Repealing Act, 1874 (16 of 1874).

26 to 29. (*Counterpart register by whom to be kept, in what native languages; manner of recording resumptions, etc.; documents respecting grants by whom to be furnished.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

30. (*Separations and annexations of exempted lands how notified to Courts.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

31 to 33. (*Register of intermediate occurrences not to fall into arrears; counterpart of same by whom to be kept; manner of correcting errors in registers.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

34. (*Manner of correcting errors in counterpart registers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

35 to 41. (*Registry in case of proprietary right being under litigation; penalty for not furnishing information; to whom copies of periodical registers are to be sent; registers to be carefully preserved; from what materials the periodical register commencing with 1207 and subsequent registers are to be formed; penalty for receiving bribes.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

Regulation
not to extend
to grants not
badshahi.

42. No part of this Regulation is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed *badshahi* or royal.

The rules applicable to such grants are contained in Regulation 19, 1793³.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (*infra*), *post*, p. 210.

³ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798: It is printed *ante*, p. 47.

BENGAL REGULATION 38 OF 1793

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1793].¹

(1st May, 1793.)

A regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to *zamindars*, independent *talukdars* or other actual proprietors of land, or dependent *talukdars* or farmers of land holding farms immediately of Government, or the under-farmers or *railyats* of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties

1. At an early period after the establishment of the British Government in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

Preamble

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

The rules above-mentioned are hereby re-enacted with modifications.

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 641.

LOCAL EXTENT.—Ss. 1 and 2 of this Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The same sections have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri and the Western Duars, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 780.

APPLICATION.—The present Regulation relates to loans by officials. As to loans to officials, see the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823 (7 of 1823), *post* p. 259.

² The remainder of the title, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

³ Portion of s. 1 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

72 THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION
REGULATION, 1793.

[Ben. Reg. 38 of 1793.]

(Secs. 2-6.)

Covenanted
servants
prohibited
lending
money to
proprietors,
etc., of land.

2. The Judges and Magistrates of the Zila * * * ¹ Courts
* * * ² and their Assistants, or other officers being covenanted servants of the Company, and the Collectors of the revenue and their Assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent *talukdar*, or under-farmer or *raiyat*, or their sureties; and all such loans as * * * ³ may be hereafter made are declared not recoverable in any Court of Judicature.

3 to 6. (*Europeans possessing land liable to be dispossessed; European mortgagees not to have possession of land; land held by Europeans to be measured; annual statements of land held by Europeans to be sent to Board of Revenue.*) Rep. by the Repealing Act, 1868 (8 of 1868).

¹The words " and City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

²The words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the Registers to their respective Courts," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³The words "have been made in opposition to the repeated prohibitions of Government or which," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 3 OF 1794

(THE BENGAL NATIVE REVENUE-OFFICERS REGULATION, 1794).¹

(14th March, 1794.)

A Regulation ° ° ° 2 for prescribing the process by which *tahsildars* are to demand payment of arrears; and for enabling the Collectors to recover from Native officers employed under them public ° ° 3 papers which they may ° ° ° 4 retain ° ° .

1 to 11. (*Revenue when payable; restriction on confinement for arrears; demand of arrears; sale; penalty on defaulters; recovery of takari; attachment of lands; resistance to attachment; partial repeal of Reg. 14 of 1793.*) Rep. by the Repealing Act, 1874 (16 of 1874).

12. (*Recovery by proprietors and farmers of land of sums exacted from them beyond their engagements.*) Rep. by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

13. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a *tahsildar* or other officer appointed by Government to collect it, such officer is to demand the payment of the arrears by the same process as Collectors are required to observe in requiring the discharge of arrears * * * 6.

If the defaulter shall not liquidate the arrears by the prescribed period, the *tahsildar* or other officer is to report the amount of the arrear to the Collector,⁷ who is to proceed to the recovery of it by the same process as

How *tahsildars* or other public officers are to require payment of arrears from proprietors or farmers paying revenue to them.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see post, p. 723.

LOCAL EXTENT.—This Regulation (ss. 13, 16 to 18 and 20) has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), post, p. 790.

² The words "for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The words "money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁴ The words "embezzle or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁵ The words "and for expediting the trial of causes relating to the public revenue or the rents of individuals," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁶ The words and figures "by section 3, Regulation 14, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁷ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, post, p. 248.

(Secs. 14-16.)

he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the *zila*.

14, 15. (*Imprisonment under Reg. 14 of 1793; security for personal appearance of Native officers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

Collectors
how to
proceed to
recover papers
in possession
of Native
officers.

16. If a Collector¹ shall have a claim, on the part of Government, on any of the Native officers described in the preceding section,² for * * * *⁴ papers belonging to Government, he is to require * * *⁵ the delivery of the papers, by a writing under his official seal and signature and the signature of his * * *⁶ head Native officer of his *daftar* for the time being specifying * * *⁷ the particular papers required, and the date and place that may be fixed for the delivery of the * * *⁸ papers.

If the officer shall not * * *⁹ deliver up the papers by the limited time, the Collector² is empowered to apprehend him, and convey him to the gaol of the *Diwani Adalat* of the *zila*, the Judge of which Court shall detain him in confinement until * * *¹⁰ he shall have delivered up the papers.

* * * * *

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector² is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the *rakil* of Government and at the public expense, and the rules in Regulation 14, 1793,¹² regarding suits so carried on by the Collectors, are to be held applicable to it.

¹ S. 16, so far as it relates to the recovery of money belonging to the Government, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ S. 15 has been repealed. The Native officers described in it are "*tahsildars, sezamals, amins, sharistadars, munshis, muhurars*, and all native officers entrusted with the receipt or payment of public money or the charge of public accounts."

⁴ The words "a balance of accounts, or money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁵ The words "the payment of the money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁶ The words "*dewan* or other," which were repealed by the Repealing Act, 1876 (12 of 1876) are omitted.

⁷ The words "the amount of the money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁸ The words "money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁹ The words "discharge the money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

¹⁰ The words "the sum demanded of him shall be discharged or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

¹¹ Certain clauses as to attachment and sale of property, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

¹² Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

of 1794.]

(Sections 17-19.)

¹17. If any such Native officer, who may have retained public * * * papers in his possession, shall abscond or not be forthcoming, the Collector³ may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the *zila*; or, if he shall have taken refuge in any other *zila* * * * and the Collector³ shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector³ is to apply to the Judge of the *zila* to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

Collectors how to proceed when officers abscond or are not forthcoming.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the *zila* from which he may have absconded.

¹18. If a Collector² shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector to be fixed up in his *cutcherry* and at the place in the *zila* at which the officer may have last resided, the Collector³ is empowered to prepare the most accurate statement, that he may be able, of the * * * papers in the possession of such officer, and proceed against the surety, upon his engagement, for the * * * papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

Collector how to proceed in case of officer absconding without having adjusted accounts, or not attending for that purpose.

or he may cause the officer to be apprehended by his own authority under section 16, if he be within the limits of the *zila*, or, if he shall have taken up his abode in any other *zila*, * * * by application to the Judge, in the manner directed in section 17.

If it should afterwards appear, upon inquiry before the Court * * * that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

19. (*Officers or sureties confined for money-demand to be released in certain cases.*) Rep. by the Repealing, and Amending Act, 1903 (1 of 1903).

¹ Sec. 17 and 18, so far as they relate to the recovery of money belonging to the Government, were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

² The words "money or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35 *post*, p. 248.

⁴ The words "or in either of the cities of Patna, Dacca, or Murshidabad," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁵ The words "balance or," which were repealed by the Repealing and Amending Act, 1908, (1 of 1908), are omitted.

⁶ The words "that no part, or a portion only, of the sum demanded was due from him, or" which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

1794.

[Ben. Reg. 3 of 1794.]

(Secs. 20-22.)

Native officers
or their sure-
ties may sue
Collector
whilst in
confinement.

¹ 20. If any such Native officer, or his surety, shall be committed to custody by the Collector² * * * *³ he shall * * * be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

21, 22. (*Appointment of Vakils to defend certain suits; days to be set aside by certain Courts for trial of suits respecting rent or revenue.*) Rep. by the Repealing Act, 1874 (16 of 1874).

¹ S. 20, so far as it relates to the recovery of money belonging to the Government, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ The words and figures "and shall not obtain his release in the mode specified in section 19," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ The word "nevertheless," which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

BENGAL REGULATION 5 OF 1799

(THE BENGAL WILLS AND INTESTACY REGULATION, 1799)¹.

(3rd May, 1799.)

A Regulation to limit the interference of the Zila ° ° ° Courts of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.

1. Doubts having been entertained to what extent, and in what manner, the Judges of the Zila * * ° Courts of the *Diwani Adalat* in the Provinces of Bengal, [*Bihar, Orissa and Benares,*] are authorised to interfere in cases wherein the inhabitants of the above Provinces may have left wills at their decease, and appointed executors to carry the same into effect, or may have died intestate leaving an estate real or personal; with a view to remove all doubts on the authority of the Zila * * ° Courts in such cases, and to apply thereto, as far as possible, the principle * * * ° that in suits regarding succession and inheritance the Muhammadan laws with respect to Muhammadans, and the Hindu laws with regard to Hindus, be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above Provinces, respectively.

Preamble.

2. In all cases of a Hindu², Mussulman or other person³ subject to the jurisdiction of the Zila * * ° Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the

Estates of Hindus, Muhammadans and others, not being disqualified landholders, leaving wills

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 641.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

JUDGES.—For power to authorize any Subordinate Judge or *Munsif* to take cognizance of proceedings under this Regulation, see the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887), s. 23, *post*, p. 617.

² The words "and City," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The words "and City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words and figures "prescribed in section 15 of Regulation 4, 1798, viz.," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ So much of ss. 2 and 3 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by Act 40 of 1858 (Minors).

⁶ Section 2 has been repealed (so far as relates to the executors of persons who are not Muhammadans, but are subject to the jurisdiction of a District Court in Bengal) by the Hindu Wills Act, 1870 (21 of 1870), s. 4, printed in the General Acts, 1868-78, Ed. 1909, p. 151.

(Secs. 3, 4.)

deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards * * * ¹ the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the *Diwani Adalat* or any other officer of Government for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature * * * ².

Estates of
persons dying
intestate.

³3. In case of a Hindu, Mussulman or other person subject to the jurisdiction of the *Zila* * * * ⁴ Courts dying intestate, but leaving a son or other heir, who, by the laws of the country, may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or, if under age or incompetent and not under the superintendence of the Court of Wards, his guardian or nearest of kin who, by special appointment or by the law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred * * * ⁵.

If there be
more heirs
than one to
estate of
intestate.

⁶4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession

¹ The words and figures "under Regulation 10, 1793, or any other Regulation relative to the jurisdiction of the Court of Wards," which were repealed partly by the Repealing Act, 1874 (16 of 1874), and partly by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² The rest of s. 2, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

³ So much of ss. 2 and 3 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by Act 40 of 1868 (Minors).

⁴ The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The words "when they are to proceed thereupon according to the general Regulations," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1799.]

(Secs. 5-7.)

is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may on investigation be found entitled to succeed thereto.

¹5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or in the latter case until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

In what cases Judge may appoint administrator for care and management of estate of intestate.

¹6. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of *Sadar Diwani Adalat*, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

Security to be taken from, and allowances paid to, administrators.

7. The Judges of the *Zila* * * * Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Procedure in cases of persons dying intestate, leaving personal property to which there is no claimant.

Such advertisement to be published on the spot where the property was found, at the *Diwani Adalat cutcherry* of the *Zila* * * *, and, if ascertainable, at the dwelling-place of the

¹ Ss. 5 and 6 have been modified by the Bengal Attached Estates Management Regulation, 1827 (5 of 1827), *post*, p. 295.

² The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Sec. 8.)

deceased * * *¹; after which, should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the ²[Local Government] for ³ its] orders.

8. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards 'in the appointment of managers or guardians for * * * disqualified landholders, * * * or in any case wherein a special power may be vested in the Court of Wards * * *

Saving of
jurisdiction of
Court of
Wards.

¹ The words "or, if the deceased were an European, in the Calcutta Gazette," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

³ The word "his," in the original text, is to be read as if the word "its" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

⁴ For the present law as to the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), in Volume II of this Code.

⁵ The word "the," the words and figures "described in Regulation 10, 1793," and the words "by the above or any other Regulation," respectively, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

BENGAL REGULATION 8 OF 1800

(THE BENGAL REVENUE-FREE LANDS REGULATION, 1800).¹

(3rd July, 1800.)

A Regulation for " " " registers of estates paying revenue, and lands held exempt from the payment of revenue.

1 to 18. (*Formation of pargana registers; divisions in same; period for preparing same; forms of register; materials for preparing same; repeal of certain enactments; explanation of the term "estate"; insertion in registers of alterations in annual revenue; copies of registers to be sent to Board of Revenue; new forms of registers; establishment.*) *Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).*

19. By section 26, Regulation 19, 1793³, section 21, Regulation 37, 1793⁴, [*and the corresponding sections in Regulations 41⁵ and 42⁵, 1795,*] all lands held exempt from the payment of revenue, which the holders may have omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient cause be shown, to the satisfaction of the Governor General in Council, for their not having been registered within the limited period.

Extension of period for registration of revenue-free grants, and assessment thereafter of all unregistered lands.

It appearing, however, that the publications directed in section 25, Regulation 19, 1793³, section 20, Regulation 37, 1793⁴, [*and the corresponding sections in Regulations 41⁵ and 42⁵, 1795,*] have not in every instance been made as therein directed (namely, the publication respecting lands held under *badshahi* grants in the principal *cutcherry* of the holders of such grants; and respecting other exempted lands in the principal *cutcherry* of every proprietor and farmer of land paying revenue to Government and of every Native Collector in lands

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 724.

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-73, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

² The words "preparing a general *pargana* register of lands, and for certain alterations in the prescribed," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 47.

⁴ The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 68.

⁵ Bengal Regulations 41 and 42 of 1795 were repealed by the North-Western Provinces Land-revenue Act, 1873 (19 of 1873).

(Secs. 20-22.)

held *khas* by Government; or when the estate, farm or *khas* land may consist of two or more whole *parganas*, or portions of *parganas*, in the principal *cutcherry* of each *pargana* or portion of a *pargana* comprised in such estate, farm or *khas* land), the Collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective Collectorships; and, if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own *cutcheries*, and in the *cutcheries* of the *Diwani* Courts situated within their respective *zilas*; allowing the further period of one year from the date of such publications for the registry of the lands therein specified.

After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered;

and the Collectors are to enter lands so assessed (together with all other *lakhirai* lands which may be brought upon the public assessment) in their succeeding * * ¹ register of estates paying revenue, as well as in their register of intermediate mutations.

20 to 22. (*Notice of establishment of new villages and by persons succeeding to landed property; Kanungos' records to be delivered to Collector.*) Rep. by the Land Registration Act, 1876 (*Ben. Act 7 of 1876*).

¹ The word "quinquennial," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

BENGAL REGULATION 10 OF 1800

(THE BENGAL INHERITANCE REGULATION, 1800).¹

(11th December, 1800.)

A Regulation for preventing the division of landed estates in the Jungle Mahals of the Zila of Midnapore and other Districts.

Preamble.

1. By Regulation 11, 1793,² the estates of proprietors of land dying intestate are declared liable to be divided among the heirs of the deceased agreeably to the Hindu or Muhammadan laws.

A custom, however, having been found to prevail in the *jungle mahals* of Midnapore and other districts, by which the succession to landed estates invariably devolves to a single heir without the division of the property, and this custom having been long established, and being founded in certain circumstances of local convenience which still exist, the Governor General in Council has enacted the following rules to be in force in the Provinces of Bengal, [*Bihar and Orissa*] from the date of its promulgation.

2. Regulation 11, 1793², shall not be considered to supersede or affect any established usage which may have obtained in the *jungle mahals* of Midnapore and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased.

In the *mahals* in question the local custom of the country shall be continued in full force as heretofore, and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those *mahals*.

Regulation
11, 1793, not
to operate in
jungle mahals
of Midnapore
and other
districts.

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 641.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal (*see s. 1*), and was extended to the *Parganas* of Pataspur and Bograi in the district of Midnapore in Bengal by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s. 36, *post*, p. 106.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed, *post*, p. 790.

² The Bengal Inheritance Regulation, 1793. It is printed *ante*, p. 41.

BENGAL REGULATION 1 OF 1801

(THE BENGAL LAND-REVENUE ASSESSMENT REGULATION,
1801).¹

(15th January, 1801.)

**A Regulation ° ° ° to explain and amend the rules ° ° ° for
the division of joint estates, and allotment of the fixed
assessment thereupon ° ° °.**

1, 2. (*Local extent; attachment of estate or farm for
arrears of revenue.*) Rep. by the Repealing Act, 1874 (16 of
1874).

3. (*Immediate sale of attached estates, on proprietors
refusing to furnish accounts.*) Rep. by the Bengal Govern-
ment Indemnity Regulation, 1822 (11 of 1822).

4. (*Distress and sale of personal property in certain cases.*)
Rep. by the Repealing Act, 1874 (16 of 1874).

5 to 7. (*Sale of estates in one or more lots.*) Rep. by the
Bengal Government Indemnity Regulation, 1822 (11 of 1822).

8. Section 10, Regulation 1, 1793³, prescribes the general
rule and principle for the allotment of the fixed assess-
ment upon all divisions of estates, whether publicly sold
or transferred by the private act of the proprietors, namely,
that the assessment upon the portion of the estate to be
separated shall bear the same proportion to its actual produce
as the fixed assessment upon the whole estate may bear to its
actual produce.

This rule is to be strictly observed in all cases, whether of
public sale or private transfer, or of division between sharers,
heirs or joint proprietors of whatever description;

and it is hereby explained that by the term "actual
produce" is to be understood the neat annual rent, or other
neat produce receivable by the proprietor, after deducting from
the gross rent, or other gross produce, the actual expense of,
collection and other usual charges of management, inclusive
of *pulbandi* or the expense of embankments, and similar

Section 10,
Regulation 1,
1798, to be
observed in all
cases of
public sale
and private
transfer or
division.

"Actual
produce"
defined.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post*, p. 725.

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, page 468), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 8, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed *post*, p. 730.

² Words and figures in the title, which were repealed by the Repealing and Amending Act, 1891, (12 of 1891), are omitted.

³ The Bengal Permanent Settlement Regulation, 1798. Section 10 is printed *ante*, p. 8.

(Sec. 8.)

incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his *malikana* or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule.

But the above Regulation further provides that the produce to which the general rule of proportion is to be applied shall be ascertained in the mode that is or may be prescribed by the Governor General in Council * * * *¹.

Procedure of officer charged with allotment of assessment of portion of estate, should he doubt accuracy of *patwari* accounts, or they be not forthcoming.

It is hereby enacted that whenever the Collector² or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village-accounts produced by a *patwari*, * * * *³;

or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts, * * * *⁴;

or if in any case the true village-accounts of the lands, rents, receipts and disbursements may not be forthcoming, but the Collector or other officer, under the powers vested in him * * * *⁵, shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire *zamindari*, *taluk* or other estate, with a specification of the *mahal* or *mahals* proposed to be separately assessed,

he shall adjust the assessment upon such *mahal* or *mahals*, under the general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village-accounts than may appear to him proper, with a view to compare and check the other accounts:

Provided, however, that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable, and shall fully satisfy himself that the accounts from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without

¹ The words and figures "and the *patwari* accounts furnished in pursuance of clause Fourth of section 62, Regulation 8, 1793, for the allotment of the public revenue agreeably to the principles laid down in Regulation 1, 1793, having in many instances proved fallacious or unsatisfactory, and in some instances not being procurable by the officers of Government," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ The words and figures "in pursuance of clause Fourth of section 62, Regulation 8, 1793, or of any other Regulation," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ The words "under the process prescribed in clause Eighth of the above section and Regulation," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁵ The words and figures "by clause First of section 29, Regulation 7, 1793, or any other Regulation," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

of 1801.]

(Secs. 9, 10).

evidence of which no distinct assessment is to be proposed by any Collector¹ or approved by the Board of Revenue²:

Provided further that nothing in this Regulation shall be understood to authorize the Collectors¹ to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue² * * * * *

Collectors not to fix assessment on portion of estate, without Board's sanction.

9. (Statement of land for sale to be submitted without delay.) Rep. by the Repealing Act, 1874 (16 of 1874).

10. All purchasers of lands at the public sales are required to attend the Collector¹ of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual *kabuliyat* and *kist-bandi* for the public revenue assessed upon the lands purchased by them.

Collectors authorized to cause attendance of landholder or other Native.

In cases of doubt as to the real purchaser * * * the Collector¹ is authorized to cause the personal attendance of the alleged purchaser at his *cutcherry* if resident within his jurisdiction; or, if the purchaser be resident in any other *zila*, the Collector¹ of such *zila* is authorized and required to cause the attendance of the purchaser at his *cutcherry* on the application of the Collector¹ in whose district the lands may lie, and to make any examination or inquiry that may be desired by the latter Collector¹ or by the Board of Revenue², to whom a full report is to be made in such cases * * * * *

It is further hereby declared that the Collectors¹ are generally empowered to cause the personal attendance of any landholder or other Native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the Regulations or instructions of the * * * Board of Revenue².

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

³ The words and figures "or to alter the provisions made for the correction of error or collusion in such allotments, by section 25, Regulation 25, 1798, in cases of private divisions of estates, and by clause Second of section, 29, Regulation 7, 1799, in cases of public sales," in s. 8, which were repealed by Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The rest of s. 8, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁵ The words and figures "or of suspicion that the purchase has been made in opposition to the rules contained in clauses Third and Fourth of section 29, Regulation 7, 1799", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ For power of Board of Revenue to require the attendance of landholders, and to fine persons neglecting to attend, see the Bengal Land-Revenue Regulation, 1798 (2 of 1798), s. 33, *ante*, p. 17.

For power to fine proprietors and farmers of land for not attending before the Collector, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 329.

⁷ The words and figures "for the orders of the Governor General in Council, as directed in clause Fourth of section 29, Regulation 7, 1799", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁸ The words "Governor General in Council or", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 11-14.)

Not to enforce personal attendance of principal if that of agent will suffice.

Effect of infringement of rule.

Summons to persons whose attendance is required.

But no Collector¹ shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him if the attendance of the agent so appointed shall be sufficient for the purpose required.

Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts;

and, whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation and residence of the party summoned, and the purpose or purposes for which his attendance is required.

11. (*Sale of shares in an undivided estate.*) Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).

12, 13. (*Division of joint estates, and allotment of the assessment.*) Rep. by Ben. Reg. 19 of 1814.

14. * * * * *

Rules regarding separable taluks not applicable to taluk constituted since decennial settlement.

The rules regarding separable taluks contained in Regulation 8, 1793,³ were never meant to be applied to any new taluks constituted since the period of the decennial settlement.

By section 9, Regulation 1, 1793,⁴ the zamindars and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their respective estates; but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the *zila*; that the fixed *jama* assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share and the *jama* assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made the whole of the estate is declared responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no transfer had taken place.

* * * * *

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² Portion of s. 14 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

³ The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.

⁴ The Bengal Permanent Settlement Regulation, 1793. Section 9 is printed *ante*, p. 3.

⁵ The words and figures "This declaration is also repeated in section 28, Regulation 25, 1793, which contains the specific rules established by Government for the division of estates paying revenue, and the allotment of the *jama* upon the several portions thereof," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

1801.]

(Sec. 15.)

If, therefore, any *zamindar* shall have disposed of his proprietary rights in any portion of his *zamindari* subsequently to the promulgation of the Regulation above-mentioned, whether under the denomination of an independent *taluk* or otherwise, and the *talukdar* or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid;

Transfer of proprietary right in portions of estates in certain cases declared invalid as far as respects rights of Government.

and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate:

Provided, however, that nothing in this section be considered applicable to dependent *taluks*, or other tenures dependent on the estate to which they are attached, and from which, by their title-deeds or otherwise, they are not entitled to be separated as a distinct estate.

Section not to apply to dependent tenures.

15. (*Applicability of certain rules to Benares.*) Rep. by the Repealing Act, 1874 (16 of 1874).

¹ The words and figures "Section 6, Regulation 14, 1793, authorizes and confirms such tenures, subject to the restrictions contained in sections 2 and 5 of that Regulation; with the explanation of the latter in section 7, Regulation 1, 1794, and clause *Fifth* of section 29, Regulation 7, 1799," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 10 OF 1804

(THE BENGAL STATE OFFENCES REGULATION, 1804)¹.

(14th December, 1804.)

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.

1. Whereas during wars in which the British Government has been engaged against certain of the Native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government;

Preamble

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William,² the Governor General in Council should declare and establish martial-law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified;

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 641.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, and the Western Duars, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

OTHER ENACTMENTS.—As to offences against the State, see also the Indian Penal Code (Act 45 of 1860), Ch. VI, in General Acts, 1834-67, Ed. 1909, p. 278.

As to the trial of State offences when a district is proclaimed to be in a state of rebellion, see the State Offences Act, 1857 (11 of 1857), in General Acts, 1834-67, Ed. 1909, p. 180.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2, 3.)

the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William¹, from the date of its promulgation.

Power in time
of war to
suspend
functions
of ordinary
Criminal
Courts, and
establish
martial law;

2. The Governor General in Council is hereby * * *² empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any *zila*, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William¹ and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct
immediate
trial by
Courts-martial
of lieges
offending
against
Regulation.

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges
convicted by
Court-martial
of crime
specified in
section 2
liable to
immediate
punishment
of death;

3. Any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to
forfeiture of
property.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² The words "declared to be", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ Formal words, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

of 1804.]

(Sec. 4.)

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, * * * * * instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Governor
General not
precluded
from causing
persons
charged with
offences to be
tried by
ordinary
Courts.

¹ The words and figures "or before any special Court appointed for the trial of such offences, under Regulation 4, 1799, and Regulation 20, 1803," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

BENGAL REGULATION 12 OF 1805

(THE CUTTACK LAND-REVENUE REGULATION, 1805).

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Sixth.—Present possessors not to transfer or mortgage grants.
27. Grants made since 14th October, 1803, and not confirmed, declared invalid.
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BENGAL REGULATION 12 OF 1805

(THE CUTTACK LAND-REVENUE REGULATION, 1805)¹.

(5th September, 1805).

A Regulation for the settlement and collection of the public revenue in [the Zila of Cuttack, including] the parganas of Pataspur, [Kamardachor] and Bhograi, at present included in the zila of Midnapore.

1. Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the *zila* of Cuttack:²

Preamble.

And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the Province of Bengal, with certain modifications and exceptions, to the *zila* of Cuttack:²

The following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation.

2 to 11. (*Confirmation, with modifications, of Proclamation as to settlement of land-revenue in the Moghalbandi territory of the zila of Cuttack; registration of landed property.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

12 to 16. (*Extension of the Stamp Regulations to Cuttack; coinage in which settlement is to be made and revenue paid; bonds dischargeable in sicca rupees; engagements for coins other than siccas or gold mohurs not to be enforced.*) Rep. by the Repealing Act, 1874 (16 of 1874).

17. The following rules, containing modifications of the provisions contained in Regulation 19, 1793,⁴ respecting lands exempt from the payment of revenue under grants not being *badshahi* or royal, shall be in force in the *zila* of Cuttack².

Modifications of Regulation 19, 1793.

18. First.—All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October, 1791, corresponding with the 30th Assin, 1198, Bengal

Validity of grants of alienated lands made before 14th October, 1791.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post* p. 725.

LOCAL EXTENT.—This Regulation extends to the *parganas* of Pataspur and Bhograi (see the title), which now form part of the district of Midnapore in Bengal.

EXTENSION OF APPLICATION.—The rules prescribed in Ben. Reg. 12 of 1805 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of Government—see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 4, *post*, p. 178.

Such parts of Ben. Reg. 12 of 1805 as relate to *lakshiraj* lands have been modified by the Bengal Revenue-free Lands Regulation, 1825 (Ben. Reg. 14 of 1825), *post*, p. 287.

² This includes the *parganas* of Pataspur and Bhograi (see the title to this Regulation), which now form part of the district of Midnapore.

³ Portion of section 1 which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁴ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 47.

(Sec. 18.)

era; [*the 3rd Kartik, 1199, Fasli*;] the 30th *Assin*, 1199, *Wilayati*; [*the 3rd Kartik, 1848, Sambat*; and *the 15th Safr 1207, Hijri*.] by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee actually and *bonâ fide* obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date above-mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Validity of
grants made
after 14th
October, 1791,
and confirmed
or admitted
before 14th
October, 1808.

Second.—All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October, 1791, and prior to the 14th day of October, 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of October, 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bonâ fide* obtain possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th day of October, 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October, 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid.

Reference of
doubtful
claims to
Governor
General.

Third.—In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 14th day of October, 1791, or under a grant made subsequent to that date, but prior to the 14th day of October, 1803, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject

of 1805.]

(Sec. 18.)

the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the¹ [Local Government,] to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the¹ [Local Government,] the Court is to decide accordingly.

In like manner the¹ [Local Government] reserves to² [itself] the power of determining, in cases of doubt, whether any officer of the *Raja* of Birar who may have made, confirmed or admitted grants of land exempt from the payment of revenue in the name or on the part of the *Raja* was competent to exercise such authority.

The Courts of Judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the¹ [Local Government].

Fourth.—But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October, 1803, the writing for which may expressly specify it to have been given for the life of the grantee only;

Rules
respecting
grants for
life only.

or supposing no such specification to have been made in writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usage of the country.

Fifth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Heirs of
present
possessors.

Nor to entitle the heirs to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary, according to the ancient usages of the country.

¹The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

²The word "himself," in the original text, is to be read as if the word "itself" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

(Sec. 18.)

But upon the demise of the present possessor of any such grant which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of of whatever right, shall have taken place before the 14th day of October, 1803, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the ¹[Local Government] to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to ²[it] proper.

Present
possessors
not to
transfer or
mortgage
grants.

Sixth.—The present possessors of lands held exempt from the payment of revenue, under all life-grants declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void:

Exemption of
certain grants
for religious
or charitable
purposes.

Seventh.—Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land, not exceeding ten *bighas*, held exempt from the payment of revenue under a grant made prior to the 14th day of October, 1803 and *bond fide* appropriated as an endowment for temples or for other religious or charitable purposes.

Moreover, if any land so held and appropriated, exceeding ten *bighas*, shall become liable to assessment under the rules contained in this Regulation, and the Judge of the Court before which the suit for the assessment of such land may be depending, or the Collector³ of the district, if no judicial suit respecting it be depending, shall be of opinion that immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the ¹[Local Government].

Courts not to
take
cognizance of
certain claims
to hold
exempted
lands.

Eighth.—The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th day of October, 1803; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.

¹ The words "Governor General in Council," in the original text, are to read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 742.

² The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 742.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *post*, p. 248.

of 1805.]

(Secs. 19-23.)

19. All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October, 1803, corresponding with the 29th *Assin*, 1210, Bengal era; [*the 14th Kartik, 1211, Fasli*;] the 29th *Assin*, 1211, *Wilayati*; [*the 14th Kartik, 1860, Sambat*; and the 27th *Jamadius-Sani 1218, Hijri*.] by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council or by an officer empowered to confirm them are declared invalid.

Grants of land exempt from revenue, made since 14th October, 1803, and not confirmed, declared invalid.

20. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the ¹[Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the ¹[Local Government,] shall decide accordingly.

Procedure in case of doubt of authority of officer confirming grant.

21. The following rule shall be in force in the Province of Cuttack ² for assessing land declared subject to the payment of revenue to Government under the three foregoing sections of this Regulation:—

Assessing lands resumed under sections 18 to 20.

22. *First.*—The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government.

Revenue to belong to Government.

Second.—The revenue, payable to Government, shall be regulated by the rules prescribed by this Regulation for concluding the settlement of lands paying revenue to Government, and by any subsequent rules which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government.

Assessment regulated by rules for settlement of revenue-paying lands.

If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the Collector ³ of the district ⁴[to the Board of Revenue,] who will determine on the amount of the assessment; and, if the proprietor shall refuse to engage for the same, the lands shall be let in farm or held *khas*, under the rules contained in the existing Regulations.

Procedure in case proprietor refuses to agree to assessment.

23. The period of one year, reckoning from the expiration of the current *Wilayati* year 1212, ⁵ shall be allowed to the proprietors to register their grants.

Periods fixed for registering grants and preparing periodical registers.

On the expiration of that period of time the Collectors ⁶ shall prepare the first periodical register of lands held exempt from

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

² This includes the *parganas* of Pataspur and Bhograi (see the title to this Regulation), which now form part of the district of Midnapore.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁴ These words in square brackets in s. 22 were substituted for the words "through the Board of Revenue, for the information of the Governor General in Council" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 742.

⁵ *i.e.*, the 18th September, 1805.

Regulation
19, 1793,
in force
in Cuttack.

24. All the provisions contained in Regulation 19, 1793¹, regarding lands exempt from the payment of revenue to Government under grants not being *badshahi* or royal, which are not superseded by the foregoing rules, are hereby declared to be in force in the *zila* of Cuttack².

Also Regula-
tion 37,
1793.

25. The following rules containing modifications of the provisions contained in Regulation 37, 1793³, respecting lands held exempt from the payment of revenue under *badshahi* or royal grants, shall be in force in the *zila* of Cuttack⁴; and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules shall be considered to be in force in the said *zila*.

"Badshahi
grant"
defined.

26. *First.*—The term "*badshahi* grant" shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following descriptions:—

First, royal grants properly so called; secondly, grants made by the *Suba* of Orissa; and thirdly, grants made by the *Rajas* of Birar.

Badshahi
grants made
before 14th
October, 1803,
declared
valid.

Second.—*Altamgha*, *jagir*, *aima*, *madadmash* or other *badshahi* grants for holding land exempt from the payment of revenue, made previous to the 14th October, 1803, shall be deemed valid provided the grantee actually and *bond fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October, 1803, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Procedure in
case of doubt
as to autho-
rity of
officers
resuming
grants.

Third.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a *badshahi* grant made previous to the 14th October, 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under

¹ So much of s. 24 as authorizes and requires proprietors and farmers of estates and dependent *taluk* (in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790,) "of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or *taluk* in which it may be situate" has been repealed by the Bengal Rent Act, 1859 (10 of 1859), s. 28, printed post, p.

² The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed, ante, p. 47.

³ This includes the *parganas* of Pataspur and Bhogra (see the title to this Regulation), which now form part of the district of Midnapore.

⁴ The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed ante, p. 68

of 1805.]

(Secs. 27, 28.)

the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the ¹[Local Government], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the ¹[Local Government] the Court is to act accordingly.

Fourth.—But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a *jagir* or other grant made previous to the 14th October, 1803, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Rules respecting grants for life only.

Fifth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a *jagir* or other *badshahi* life-grant made previous to the 14th October, 1803, to succeed to and hold such land, exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Sixth.—The present possessors of lands now exempt from the payment of revenue, under such *jagir* or other life-grants made previous to the 14th October, 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages which have been or may be made are declared illegal and void.

Present possessors not to transfer or mortgage grants.

27. All *badshahi* grants for holding land exempt from the payment of revenue, which may have been made since the 14th October, 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.

Grants made since 14th October, 1803, and not confirmed, declared invalid.

28. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such the payment of revenue; and the second, third and each successive register at the expiration of every five years.

Procedure in case of doubt of authority of officer confirming grant.

¹The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor— see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 742.

(Secs. 29-31.)

grant, the Court is to suspend its judgment, and report the circumstances of the case to the ¹[Local Government,] to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the ¹[Local Government,] shall decide accordingly.

Periods fixed
for registering
grants and
preparing
periodical
registers.

29. The period of one year, reckoning from the expiration of the *Wilayati* year 1212,² shall be allowed to the proprietors to register their grants. On the expiration of that period of time the Collectors³ shall prepare the first periodical register of lands held exempt from the payment of revenue under *badshahi* tenures and the second, third and each successive register at the expiration of every five years.

Pensions.

30.

In cases in which persons may have obtained pensions⁵ from the Government of Birar, under grants made previous to the 14th day of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbents, as shall appear to the ¹[Local Government,] on a consideration of the tenor of the grant and all the circumstances of the case, to be proper * * * :

Provided * * * that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th day of October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the ¹[Local Government] to exist for continuing the said pensions to their heirs and successors:

Provided also that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of *Jagannath*, the charitable donation to the officers of certain Hindu temples, called *Anuchatri*, and the allowance granted for the support of the Hindu temple at Cuttack, called *Sitaram Thakur Bari*.

Collection of
sair, etc.,
abolished.

31. The settlement of the land-revenue of the *zila* of Cuttack having been ordered to be made with the exclusion of all *sair*-duties, all duties of that description are hereby abolished

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903) Sch. II, *post* p. 742.

² I.e. the 18th September, 1805.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 86, *post*, p. 248.

⁴ Portion of s. 30 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891) is omitted.

⁵ As to pensions, see now the Pensions Act, 1871 (23 of 1871), in General Acts, 1868-78, Ed. 1908, p. 169.

⁶ The words and figures "under section 4, Regulation 24, 1793," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁷ The word "likewise," which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

of 1805.]

(Secs. 32-36.)

in the said *zila*¹; with the exception of the tax' on the sale and consumption of spirituous liquors and intoxicating drugs
* * *

32. (*Extension of Reg. 36 of 1793 to Cuttack.*) Rep. by Act 16 of 1864

33. The Commissioners having granted *sanads* to certain *zamindars*, entitling them to hold their estates at a fixed *jama* in perpetuity, those *sanads* are hereby confirmed. The following is a list of the names of the *zamindars* to whom this provision is to be considered applicable :—

Zamindar of Kila Darpan,
Ditto of ditto *Sukinda.*
Ditto of ditto *Madhupur.*

Sanads
granted to
certain
zamindars
confirmed.

34. The Commissioners having likewise granted a *sanad* to Fateh Muhammad, *jagirdar* of *Malud*, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such *sanad* is hereby confirmed.

Also *sanad*
granted to
Fateh
Muhammad,
jagirdar of
Malud.

35. First.—The late Board of Commissioners having concluded a settlement of the land-revenue with certain *zamindars*, whose estates are situated chiefly in the hills and jungles, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed; and no alteration shall, at any time, be made in the amount of the revenue payable under the engagements in question to Government.

Also
settlement
concluded
with certain
hill and
jungle
zamindars.

Second.—The following is a list of the *mahals* to which the provision in the preceding clause is applicable :—

*Kila Aull,*³ *Kila Hamishpore,*⁵
Ditto *Kujan,* Ditto *Marichpur,*
Ditto *Putra*⁴ Ditto *Visumpur.*

Third.—The *zamindaris* of *Korda*⁶ and *Kanka*⁷ being *mahals* of the description of those specified in the preceding clause, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those *mahals* on the principle on which a settlement has been concluded with the *zamindars* of the *mahals* specified in the preceding clause:

Like
settlement
to be
concluded
with
zamindars of
Khurda and
Kanaka.

36. All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or Native, in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in, the *zila* of Cuttack¹.

Regulations
regarding
settlement or
collection of
revenue,
&c., in
Bengal
extended to
Cuttack.

Provided, however, that nothing herein contained shall be construed to authorize the division of the lands comprised in

Exceptions.

¹ This includes the *parganas* of Pataspur and Bhogra (see the title to this Regulation), which now form part of the district of Midnapore.

² The words "and the duties levied from pilgrims at Jaganath" are omitted, as having been repealed by Act 10 of 1840. The rest of the section was repealed by the Repealing and Amending Act, 1903 (1 of 1903), and is also omitted.

³ Query Ali.

⁴ Query Patiya.

⁵ Query Harispur.

⁶ Query Khurda.

⁷ Query Kanaka.

(Sec. 37.)

any estates in the *zila* of Cuttack¹, in which the succession to the entire estate devolves according to established usage to a single heir : in cases of this nature the Courts of Justice are to be guided by the provisions contained in Regulation 10, 1800 :²

* * * * *

37. (*Similar exceptions applicable to the territory of Mayurbhani*) Rep. by the Tributary Mahals of Orissa Act 1893 (11 of 1893.)

¹ This includes the *parganas* of Pataspur and Bhograi (see the title to the Regulation) which now form part of the district of Midnapore

² The Bengal Inheritance Regulation, 1800. It is printed *ante*, p. 83

³ Portion repealed by the Tributary Mahals of Orissa Act, 1893 (11 of 1893), is omitted

BENGAL REGULATION 13 OF 1805

(THE CUTTACK POLICE REGULATION, 1805).¹

(5th September, 1805.)

A Regulation for the maintenance of the peace and for the support and administration of the Police in the *zila* of Cuttack,

1. Whereas it is essential to the security of the persons and property of the inhabitants of the districts and lands included in the Province of Cuttack and its dependencies that a regular and efficient system of police should be maintained in the said Province :

Preamble.

the following rules have been enacted, to be immediately in force in [the Province of Cuttack including] the *parganas* of Patáspur, [Kamardáchor] and Bhográi.

2. [The districts and lands comprised in the Province of Cuttack, with the exception of the *parganas* of Patáspur, Kamardáchor and Bhográi, shall be * * * * *] *denominated the zila of Cuttack*].

Zila of Cuttack.

3. The abovementioned *parganas* of Patáspur, [Kamardáchor] and Bhográi, shall be included, as at present, in the *zila* of Midnapore ; subject, however, to all the laws and Regulations which have been or may be enacted for the internal government of the *zila* of Cuttack :

Certain *parganas* included in *zila* of Midnapore, but subject to Regulations enacted for Cuttack.

Provided, nevertheless, that it shall at any time be lawful for ⁵[the Local Government, by notification in the Calcutta Gazette,] to make any alteration with respect to the boundaries of the said *zila* [s] of Midnapore [and Cuttack] which may appear to be expedient.

4. *First*.—The following rules shall be observed in the appointment of *darogas* for the maintenance of the police [in the *zila* of Cuttack, and] in the abovementioned *Parganas* of Patáspur, [Kamardachor] and Bhográi :

Rules for appointment of *darogas*.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post*, p. 725.

LOCAL EXTENT.—This Regulation extends to the *parganas* of Patáspur, and Bhográi [see ss. 1, 3, 4(1), 13], which now form part of the district of Midnapore.

² The words and figures "and for amending certain provisions contained in Regulation 4, 1804," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ Portion of s. 1 which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁴ The words and figures "formed into one *zila*, instead of two *zilas*," as prescribed in Regulation 4, 1804, and shall be," which were repealed by the Repealing Act, 1874. (16 of 1874), are omitted.

⁵ The words "the Governor General in Council, by an Order in Council," in the original text, are to be read as if the words "the Local Government, by notification in the Calcutta Gazette," were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908) Sch. II, *post*, p. 742.

(Secs. 5-8.)

Certain
zamindars to
continue to
act as police-
officers in
their
respective
estates

Second.—In cases in which the *zamindars*, *talukdars* and other landholders have not been formally divested of the charge of the police within the limits of their respective estates, for misconduct or any other reason, either by the late Marátha Government or by the Board of Commissioners for the settlement of the affairs of Cuttack, such *zamindars*, *talukdars* and other landholders shall continue, under the responsibility stated in section 6, Regulation 4, 1804,¹ in charge of the police, according to established usage, within their respective estates; that is the principal *zamindars*, *talukdars* and other landholders, being proprietors of large estates, shall be constituted *darogas* of police within the limits of their respective possessions; and the inferior *zamindars*, *talukdars* and other landholders, being proprietors of petty estates, shall be considered to be subordinate officers of police, subject to the above-mentioned responsibility, under the immediate authority of *darogas*, who shall be selected and appointed for the maintenance of the police in estates or *mahals* of the latter description.

Third.—(In what cases *khandaits* to be nominated to the charge under control of *darogas*.) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Salaries of
darogas.

Fourth.—The *darogas* who may be appointed under clauses second * * * of this section shall receive such salaries as the [Local Government] may think proper to fix for their support, on a consideration of the labour and responsibility of the offices held by them.

5 to 7. (*Lands assigned by the late Government for the maintenance of the sardars and other paiks to be continued to them; Register of the sardar and other paiks; Darogas to fix limits of local authority of the Khandaits. etc.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Zamindars,
etc., not
exempted
from afford-
ing assist-
ance to
prevent
breaches of
peace, etc.

8. Nothing contained in this Regulation shall be construed to exempt the *zamindars*, *talukdars*, farmers and other holders of land, although they be not formally constituted officers of police, from the duty of affording every assistance in the prevention of breaches of the peace and in the apprehension of public offenders, who are immediately to be delivered into the custody of the nearest officers of police.

¹ Ben. Reg. 4 of 1804 was repealed by the Repealing Act, 1868 (8 of 1868); but this reference was saved by section 1 of that Act. The portion of section 6 of Reg. 4 of 1804 which relates to the responsibilities of landholders in the matter of police runs as follows:

"Provided, however, that this Regulation shall not be construed to exonerate the *zamindars*, farmers or other holders of lands in the *zila* of Cuttack from the duties and responsibility imposed on them, by the terms of their respective tenures or engagements and the usages of the country, for the prevention of robberies and other disorders and for the maintenance of peace and good order within their respective limits. Such *zamindars*, farmers and other holders of land shall continue to perform such duties, subject to the same responsibility as heretofore, notwithstanding anything that may be said to the contrary in any Regulation enacted previously to the date of this Regulation."

² The words "and third", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 742.

of 1805.]

(Secs. 9-13.)

9. Any *zamindar*, *tahukdar* or holder of land exempt from revenue who may be suspected of conniving at any robbery or other public offence will be liable to be prosecuted before the Criminal Courts of the country, and punished on conviction under the general laws and Regulations of the country.

Liability of *zamindars*, etc., suspected of conniving at robbery, etc.

10, 11. (*Register of lands assigned for sardar and other paiks; above rules not applicable to dusháds or village-watchmen, entertained by landholders.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

12. (*Authority of Board of Commissioners in Cuttack discontinued.*) Rep. by the Repealing Act, 1874 (16 of 1874).

13. All laws and Regulations for the maintenance of the police, and for the administration of justice in criminal cases, in the Province of Bengal, which have been or shall be enacted, and which shall not be inconsistent with or repugnant to the provisions contained in this Regulation, * * *¹ shall have full force and effect [*in the zila of Cuttack and*] in the *parganas* of Patáspur, [*Kamardichor*] and Bhograí included in the *zila* of Midnapore.

Extension of Regulations for police and administration of criminal justice to Cuttack.

¹ The words and figures "and likewise such of the rules contained in Regulation 4, 1804, as are not either specifically or virtually rescinded by the present Regulation," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

² The proviso to s. 13, which was repealed by the Tributary Mahals of Orissa Act, 1898 (11 of 1898), is omitted.

BENGAL REGULATION 11 OF 1806

(THE BENGAL TROOPS TRANSPORT AND TRAVELLERS' ASSISTANCE
REGULATION, 1806).¹

(3rd July, 1806.)

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories

1. Whereas it is expedient to enact into a Regulation, for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's Provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops;

and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native), proceeding through their respective jurisdictions in procuring the means of prosecuting their journeys;

the following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William² (according as

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 612.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding clause of s. 1, *post*, p. 112.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 158), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 8, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri and the Western Duars, in the Jalpaiguri District—see Vol. IV, Pt. IV and the Western Hills and the Tarai, in the Darjeeling District—see *ibid*.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

REPEAL AS TO COOLIES.—Such part of this Regulation as authorizes the Collectors and their native officers, or the Magistrates and their police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of Civil and Military officers or other individuals travelling through the country, either on the public service or on their private affairs, was repealed by Ben. Reg. 8 of 1820.

FURTHER ENACTMENT.—For further provisions as to the transport of troops, see the Bengal Troops Transport Regulation, 1825 (6 of 1825), *post*, p. 268.

² Portions of the title and section 1 which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2; 3.)

such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors¹ of the revenue of the *zilas* through which the troops are to pass of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Collectors¹ the probable period of the arrival of the troops at the rivers or *nalas* intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. * * *

Procedure of Collector on notice.

3. *First*.—On receiving the notification mentioned in the foregoing section the Collector¹ shall immediately issue the necessary orders² to the landholders, farmers, *tahsildars* or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nalas* as may intersect their march, without any impediment or delay.

The Collector¹ shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*⁴, boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Police to assist on providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks required.

Rates for supplies furnished to troops.

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current *bazar* prices of the place at which they may be provided;

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² The words "The Commanding Officer will at the same time communicate to the Magistrates of the *zilas* through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions," which were repealed by the Repealing and Amending Act, 1897 (6 of 1897), are omitted.

³ As to fines imposable on landholders and other persons for disobedience to orders issued under this section, see the Bengal Troops Transport Regulation, 1825 (6 of 1825), *post*, p. 268.

⁴ This Regulation has been repealed as to *coolies*—see footnote on page 111, *ante*.

(Sec. 4.)

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Commanding officers to inquire into, and redress, complaints against persons under their command.

4. *First*.—Whenever a detachment of troops or single corps shall be provided with boats, temporary bridges or other accommodations by any landholder, farmer, *tahsildar* or other person, conformably to the orders of the Collector¹ of the *zila*, for the purpose of crossing the troops and their baggage over rivers or *nahls*, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

Certificate to be granted by commanding officer when troops are provided with boats, etc.

In instances in which temporary bridges may be constructed for the above purpose the certificate to be granted by the commanding officer is to specify generally the dimensions of the bridges and the materials of which they may be composed.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector¹ of the *zila* by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Certificate to be sent to Collector with account.

The Collector¹ shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

Third.—When the account above mentioned shall be returned to the Collector¹ he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the *zila*; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the² [Local Government].

Account and vouchers to be sent by Collector with his report to Governor General.

After the account shall have undergone the examination and report prescribed for all military contingent charges, the³ [Local Government] will pass such final order as may appear proper.

In the meantime the Collector¹ is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by

Collector may pay charge if reasonable.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² These words in square brackets in s. 4 (3) were substituted for the words "Governor General in Council" by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II—see *post*, p. 687.

(Sec. 5.)

him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure for
landholders,
etc., sustain-
ing injury
from march
or encamp-
ment.

Certificate by
commanding
officer.

Certificate
with
statement of
claim to be
presented to
Collector
within ten
days.

5. First.—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector¹ of the *zila* (either in person or by his *vakil*) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector¹ after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector,¹ on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue², accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector¹ shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

of 1806.]

(Secs. 6-8).

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transit orders to the several police-*darogas* or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector¹ in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Procedure by Magistrates on receiving notice mentioned in section 2.

7. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

Report to Commander-in-Chief by officers commanding troops on march.

In like manner, the Collectors¹ are directed to report to the Board of Revenue², • • •³, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,⁴ boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

On receiving an application of the above nature the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*⁴ or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Assistance how afforded.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), *supra* (1), *post*, p. 210.

³ The words "and the Magistrates to report to the *Nizamat Adalat*, for the information of the Governor General in Council," which were repealed by the Repealing and Amending Act, 1897 (5 of 1897), are omitted.

⁴ This Regulation has been repealed as to *coolies*—see foot-note on p. 111, *ante*.

(Secs. 9-20.)

Persons and
carts and
bullocks not
to be em-
ployed in
furnishing
assistance.

But all police-officers are strictly forbidden, under pain of
dismissal from office . . . , on applications of the above
nature, to compel any persons not accustomed to act as bearers,
*coolies*¹ or boatmen, to serve, on such occasions, or to fur-
nish a traveller, or cause him to be furnished, with bullocks or
carts kept for private use and not for hire, or exclusively
appropriated to the purposes of agriculture.

Person em-
ployed to be
at liberty to
return from
first police-
station.

Persons so employed, and the persons in charge of carts and
bullocks so provided, shall be at liberty to return from the first
police-station in the next *zila* through which the corps or
detachment is to march, unless a voluntary engagement to the
contrary may be entered into by such persons.

Conditions of
assistance to
travellers.

The police-officers are further enjoined to be careful that a
proper compensation for the bearers, *coolies*, boatmen, carts or
bullocks employed, and a just price for the provisions or other
articles provided, be secured to the persons entitled thereto.

For this purpose the police-officers are authorized to adjust
the rate of hire to be paid for the bearers, *coolies*,² boatmen,
carts and bullocks required and the price of any articles
provided, as well as to demand that the whole or a part, accord-
ing to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment
or demand so made by a police-officer, he will not be entitled
to any assistance from the officers of Government under this
Regulation.

9. (*Prohibition against persons not in the military service
wearing military dress.*) Rep. by the Repealing Act, 1874
(16 of 1874).

10. (*Trial of military guards by martial law in certain
cases.*) Rep. by the Repealing Act, 1876 (12 of 1876).

11, 12. (*Rules for promulgating Regulations.*) Rep. by
the Repealing Act, 1874 (16 of 1874).

13 to 19. (*Rules for supplying military guards or detach-
ments; permanent guards; temporary guards; monthly report
of guards, etc., supplied; application of rules; non-applica-
bility in Presidency stations.*) Rep. by the Repealing Act,
1876 (12 of 1876).

20. (*Repeal of cl. (1), s. 22, of Reg. 1 of 1804.*) Rep. by
Ben. Reg. 2 of 1811.

¹ The words and figures "under the rules prescribed by Regulation 5, 1804," which were repealed
by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

² This Regulation has been repealed as to *coolies*—see foot-note on p. 111, *ante*.

BENGAL REGULATION 19 OF 1810

(THE BENGAL CHARITABLE ENDOWMENTS, PUBLIC BUILDINGS
AND ESCHETS REGULATION, 1810).¹

(14th December, 1810.)

A Regulation for the due appropriation of the rents and produce of lands granted for the support of colleges and other purposes; for the maintenance and repair of public buildings; and for the custody and disposal of *nazul* property or escheats.

1. Whereas considerable endowments have been granted in land by the preceding Governments of this country and by individuals for the support of colleges and for other beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of *nazul* property or escheats, the following rules have been enacted, to be in force, from the period of their promulgation, throughout the Provinces immediately dependent on the Presidency of Fort William ².

Preamble.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 726.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 in General Acts, 1868-78, Ed. 1909, p. 158), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Part IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

PARTIAL REPEALS.—Such parts of Ben. Reg. 19 of 1810 as require that the Board of Revenue should provide, with the sanction of the Government, for the due repair of public edifices of the description of bridges, *sardis* and *katras*, were repealed by Ben. Reg. 17 of 1816, s. 16.

So much of Ben. Reg. 19 of 1810 as relates to endowments for the support of Mosques, Hindu temples or other religious purposes was repealed by the Religious Endowments Act, 1865 (20 of 1865), printed in General Acts, 1854-67, Ed. 1909, p. 406. See the saving in s. 23 of that Act.

² The words "Mosques, Hindu temples," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ The words "bridges, *sardis*, *katras* and other," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ The words "pious and," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁵ This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2-7.)

Superintendence of lands granted for support of colleges, &c.

2. The general superintendence of all lands granted for the support of * * * colleges and for other * * * beneficial purposes, and of all public buildings, such as bridges, *sardis*, *kattras* and other edifices, is hereby vested in the Board of Revenue³

Appropriation of endowments.

3. It shall be the duty of the Board of Revenue³ * * * to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted

In like manner it shall be the duty of⁶ [the Board of Revenue]³ to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community⁷.

Disposal of ruined buildings.

4. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material accommodation to the public, the⁸ [Board]³ shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

Lands or public edifices not to be appropriated by individuals for private uses.

5. Under the foregoing rules it will of course be incumbent on the Board of Revenue³ * * * to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

Estimates of necessary repairs to be submitted to Government.

6. Whenever the Board of Revenue³ * * * may be of opinion that any of the above-mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to Government for its approval.

Superintendence of *nazul* property.

7. The general superintendence of all *nazul* property or escheats is likewise hereby vested in the Board of Revenue³

¹ The words "Mosques, Hindu temples," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² The words "pious and," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

⁴ The words "and Board of Commissioners in the several districts subject to the control of those Boards respectively," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903) are omitted.

⁵ The words "and Board of Commissioners," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁶ These words in square brackets in s. 8 were substituted for the words "those Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 743.

⁷ This paragraph was repealed, as to public edifices of the description of bridges, *sardis* and *kattras*, by Ben. Reg. 17 of 1816, s. 16.

⁸ This word "Board" in s. 4 was substituted for the word "Boards" by the Repealing and Amending Act, 1903, Sch. II—see *post*, p. 743.

(Secs. 8-12.)

* * * ¹, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.

8. To enable the Board of Revenue * * * the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each *zila* subject to the authority, control and orders of [the Board].²

Appointment
of local
agents.

9. The Collector of the *zila* shall be *ex officio* one of those agents, with whom the ³ [Local Government] will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.

Collector to
be *ex-officio*
against with
others.

10. Under the provisions of the present Regulation it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all *nazul* property or escheats, and to report to the Board * * * ⁴ any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

Agents to
ascertain and
report par-
ticulars of
endowments,
etc.;

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of *matiwali* or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.

also names,
etc., of pre-
sent trustees
or managers;

12. The local agents will also report to the ⁵ [Board of Revenue] ⁶ all vacancies and casualties which may occur, with full information of all circumstances, to enable the ⁷ [Board] ⁸ to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the

and all vacan-
cies or casual-
ties, with full
information
as to preten-
sions of claim-
ants;

¹ The words "and Board of Commissioners respectively," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (2), *post*, p. 210.

³ The words "and Board of Commissioners," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ These words "the Board" in s. 8 were substituted for the words "those Boards respectively" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 743.

⁵ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 743.

⁶ The words "to whose authority those agents are respectively subject," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁷ These words "Board of Revenue" in s. 12 were substituted for the words "superior Boards," by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 743.

⁸ This word "Board" was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 743.

(Secs. 13-16.)

successor have been in former instances elected, and by whom, or whether he have been nominated by the founder or his heir or representative, or by any other individual patrón of the foundation, or by any officer or representative of Government, or directly by the Government itself.

to recom-
mend fit per-
sons in cases
where nomi-
nation rests
in Govern-
ment.

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the ¹[Board of Revenue],² a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

Board to ap-
point such
persons, or
make other
provision for
trust.

14. On the receipt of the report and information required by the preceding clause, the Board of Revenue² * * *³ will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management as may be right and fit with reference to the nature and conditions of the endowment having previously called for any requisite further information from the local agents.

Saving of
private
rights.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing * * *⁴ for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of
Regulation.

16. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the

¹ These words "Board of Revenue" in s. 13 were substituted for the words "superior Board" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 743.

² As to the exercise of functions of the Board of Revenue by other authorities, *see* references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

³ The words "or Board of Commissioners," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ The words "in the mode and form prescribed by the Regulation, where Government or public officers are parties; or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

(Sec. 16.)

convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

BENGAL REGULATION 5 OF 1812

(THE BENGAL LAND-REVENUE SALES REGULATION, 1812).¹

(1st May, 1812.)

A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.

1. (*Preamble and local extent.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

2. * * * Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants and most conducive to the improvement of their estates.

Proprietors competent to grant leases for any term.

3. * * * The proprietors of land shall henceforward be considered competent to grant leases to their dependent *talukdars*, under-farmers and *rai-yats*, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests :

Proprietors competent to grant leases and receive engagements in any convenient form.

Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of *abwab*, *mathat* or any other denomination.

Prohibition of arbitrary cesses.

All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void : but the Courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or, in other words, enforce payment of such sums as may have been specifically agreed upon between them.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post*, p. 726.

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely :—

West Jalpaiguri in the Jalpaiguri District—see Vol. IV, Pt. IV ; and

the Western Hills, the Tarai and the Dumson Sub-division, in the Darjeeling District—see *ib.*

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² S. 2 is explained in the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 2, *post*, p. 181.

Leases made in conformity to ss. 2 and 3 are to remain in full force notwithstanding the partition, sale, devolution, gift, etc., of an estate—see the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 3, *post*, p. 131.

Ss. 2, 3, 4, 26 and 27 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (*post*, p. 492), in the whole of the former Province of Bengal “except the town of Calcutta, the Division of Orissa and the Scheduled Districts.”

The extension of the repeal to Scheduled Districts depends upon the term² of notifications extending the Act of 1885 to such districts. Under the terms of the notification extending the Act of 1885 to the Jalpaiguri district, the repeal has taken effect in that district.

³ Repealing clauses in ss. 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 4-26.)

No attacher of lands on part of Government or purchaser at public sales, entitled to annul existing leases within year.

14. * * * * * Neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature * * *³

5 to 23. (*Rules as to rates at which purchasers of land may collect during year in which sale took place; rules to apply to sequestrators, etc., holding under authority of Boards of Revenue or Commissioners; modifications of existing rules for recovery of arrears.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

Sales of entire estates not liable to be annulled on ground of some sharers not having obtained possession.

24. It is hereby declared that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the Courts of Judicature on the ground that one or more of the sharers may not have obtained possession of his or their interests in the property.

The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue * * * subject to the control exercised by the Government in its executive capacity, in matters connected with the public revenue.

Nor on ground of proceeds having materially exceeded arrears due.

25. No means existing by which any certain or accurate computation can be formed *à priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands to Government.

The Board of Revenue * * * will be guided in cases of that nature by their own discretion; subject, of course, to any instructions with which they may at any time be furnished by the * [Local Government].

Appointment by Judges of managers of joint-undivided estates.

26. Inconvenience to the public and injury to private rights having been experienced in certain cases from disputes subsisting among the proprietors of joint-undivided estates

¹ As to the local repeal of sections 4 and 26, see the concluding paragraphs of foot-note ² on p. 123, ante.

² Portion of s. 4 which was repealed by the Repealing Act, 1871 (16 of 1871), is omitted.

³ The words and figures "the case to be tried as a summary suit under Regulation 7, 1799," in s. 4, which were repealed by the Repealing Act, 1874 (16 of 1871), are omitted.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), post, p. 210.

⁵ The words "and Board of Commissioners, respectively," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁶ The words "and Board of Commissioners," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁷ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. I, post, p. 748.

of 1812.]

(Secs. 27, 28.)

it is hereby enacted that whenever sufficient cause shall be shown by the Revenue Authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the *Zila* * * *¹ Judges to appoint a person, duly qualified and under proper security, to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate * * *².

³ **27.** In like manner, should the Authorities aforesaid, or any individual holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them or him to represent the circumstances of the case to the *Zila* * * *⁴ Judge, and to move the Court for the removal of the said manager * * *⁵.

Court may be moved for removal of managers.

28. (*Penalty and interest on arrears.*) *Rep. in part by Ben. Reg. 12 of 1824. Residue rep. by Ben. Reg. 7 of 1830.*

¹ The words "and City," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² Portion of s. 26 which was repealed by the Repealing Act, 1871 (16 of 1871), is omitted.

³ As to the local repeal of s. 27, see the concluding paragraphs of foot-note ² on p. 123, *ante*.

⁴ The words "or City," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁵ Words repealed by the Repealing Act, 1871 (16 of 1871), are omitted.

BENGAL REGULATION 11 OF 1812

(THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812).¹

(18th July, 1812.)

A Regulation to empower the² [Local Government] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

1. Whereas considerable bodies of persons, being Natives of Arakan and ordinarily denominated Mughls, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier; Preamble.

And whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava³, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava³;

And whereas it is, in consequence, necessary that the² [Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. I—*see post*, p. 642.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—the concluding paragraph of section 1, *post*, p. 128.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Part IV; and the Dmson Sub-division, in the Darjeeling District—*see ibid*.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

OTHER ENACTMENTS.—For powers for preventing subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, *see* the Foreigners Act, 1864 (3 of 1864), in General Acts, 1834-67, Ed. 1909, p. 428.

For other enactments relating to foreigners, *see* the title "Alien" in the Index to the Indian Statutes, Ed. 1911, p. 29.

² The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—*see* Sch. II, *post*, p. 637.

³ The Government of Ava has ceased to exist, its territories having been annexed to the British Dominions. The territories are now known as "Upper Burma."

(Secs. 2-4.)

they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated :

And whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William¹.

Power to
order removal
of emigrants
to parts of
country
deemed
convenient.

2. Whenever the² [Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the² [Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the² [Local Government] to order such removal whenever³ [it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants
allowed to
dispose of
property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper :

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the² [Local Government] to order such property to be sold by public auction under the superintendence of the Collector⁴ of the district.

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

*Power to
order leaders
or other
emigrants to
be apprehend-
ed and
kept under
restraint.

4. In cases in which the² [Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 637.

³ This word "it" was substituted for the word "he" by the Burma Laws Act, 1898 (13 of 1898), s. 16, printed in the Burma Code, Ed. 1910, p. 135.

⁴ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

of 1812.]

(Sec. 5.)

that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the ¹[Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the ¹[Local Government] necessary for the public good.

5. *First*.—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence * *² and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence * *² and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Provided, however, that, if the Judge * *³ by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial ⁴[to the Local Government, and the Local Government shall pass such orders thereon as it may think fit]:

Proviso.

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the ¹[Local Government] from the exercise of the power vested in the Government by section 4 of ⁵[this Regulation].

¹ The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 687.

² The words "before the Court of Circuit," in clauses *First* and *Second* of s. 5, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words "of Circuit," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ These words in square brackets were substituted for the words "to the Nizamut Adalat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 687.

⁵ The words "this Regulation" were substituted for the words "the said Regulation" by the Repealing and Amending Act, 1908 (1 of 1908), see Sch. II, *post*, p. 743.

BENGAL REGULATION 18 OF 1812

(THE BENGAL LEASES AND LAND-REVENUE REGULATION,
1812).¹

(19th September, 1812.)

A Regulation for explaining section 2, Regulation 5, 1812,² and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795,³ and enacting other rules in lieu thereof.

1. Whereas it has been deemed expedient to remove doubts which have arisen on the construction of section 2, Regulation 5, 1812,² and to rescind sections 3 and 4 of Regulation 44, 1793, and sections 3 and 4 of Regulation 50, 1795,³ the following rules have been enacted, to be in force from the promulgation of them in the Provinces of Bengal, [*Bihar, Orissa (exclusive of the district of Cuttuck)*] and the *parganas* formerly dependent on that district but now annexed to the *zila* of Midnapore

Preamble.

2. Doubts having arisen on the construction of section 2, Regulation 5, 1812,² it is hereby explained that the true intent of the said section was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent which they might deem conducive to their interests:

Explanation of section 2, Regulation 5, 1812, as to granting leases in perpetuity or otherwise.

Provided, however, that nothing contained in the former or present Regulation shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

3. *First.*—(*Repeal of ss. 3 and 4 of Regs. 44 of 1793 and 50 of 1795.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—*see post*, p. 726.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal, with certain exceptions (*see* section 1). It has, however, been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1), *post*, p. 492, in the whole of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notification extending the Act of 1885 to the Jalpaiguri district, the repeal has taken effect in that district.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 796.

² The Bengal Land-revenue Sales Regulation, 1812. Section 2 is printed *ante*, p. 128.

³ The portions of the title and section 1 which are printed in italics are now obsolete. Ben. Regs. 44 of 1793 and 50 of 1795 were finally repealed by Act 29 of 1871.

⁴ The words "and Benares," in section 1, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[Ben. Reg. 18 of 1812.]

(Sec. 3.)

Rule for
apportioning
assessment on
shares of
estates when
divided.

Second.—When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of Justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in section 10, Regulation 1, 1793¹, * * *² without regard to any engagements that may subsist between the proprietors and their dependent *talukdars* (excepting the dependent *talukdars* described in section 7, Regulation 44, 1793,³ under-farmers or *raiyyats*.

But all leases made in conformity to sections 2 and 3, Regulation 5, 1812,⁴ and section 2 of this Regulation shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.

¹ The Bengal Permanent Settlement Regulation, 1793. S. 10 is printed *ante*, p. 8.

² The words and figures "and section 7, Regulation 27, 1793," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871, but the reference in the text is saved by section 1 of that Act. The description in Reg. 44 of 1793, s. 7, is as follows:—

"such dependent *talukdars* as were exempted from any increase of assessment at the forming of the Decennial Settlement in virtue of the prohibition contained in clause *First*, section 51, Regulation 8, 1793."

Section 51, clause *First*, of Ben. Reg. 8 of 1793, is printed *ante*, p. 37.

⁴ The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 123.

BENGAL REGULATION 29 OF 1814

(THE BENGAL GHATWALI LANDS REGULATION, 1814).¹

(3rd December, 1814.)

A Regulation for the settlement of certain *mahals* in the district of Birbhum, usually denominated the *Ghatwali mahals*.

1. WHEREAS the lands held by the class of persons denominated *ghatwals*, in the district of Birbhum, form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable;

And whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the *zamindar* of Birbhum and to the performance of certain duties for the maintenance of the public peace and support of the police;

And whereas the rents payable by those tenants have been recently adjusted, after a full and minute inquiry made by the proper officers in the Revenue Department;

And whereas it is essential to give stability to the arrangements now established among the *ghatwals*, the following rules have been adopted, to be in force from the period of their promulgation in the district of Birbhum:

2. A settlement having lately been made on the part of the Government with the *ghatwals* in the district of Birbhum, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

3. The *ghatwali* lands shall be considered, as at present, to form a part of the *zamindari* of Birbhum; but the rents of *ghatwals* shall be paid direct to the Assistant Collector stationed at Suri, or to such other public officer as the Board of Revenue² * * *³ may direct to receive the rents.

Ghatwals in Birbhum, and their descendants in perpetuity, to be maintained in possession of lands, and not liable to enhancement of rent.

Ghatwali lands to form part of *zamindari* of Birbhum. Rents how paid.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—*see post*, p. 726.

LOCAL EXTENT.—This Regulation was passed only for the district of Birbhum—*see the title and ss. 1 and 2*.

LEASES.—As to power of holders of *ghatwali* lands to grant leases, *see the Bengal Ghatwali Lands Act, 1859* (5 of 1859), *post*, p. 381.

NON-APPLICATION OF BENGAL TENANCY ACT.—The Bengal Tenancy Act, 1885 (8 of 1885), does not affect any incident of a *ghatwali* tenure—*see s. 181 of that Act, post*, p. 592.

² As to the exercise of functions of the Board of Revenue by other authorities, *see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822* (8 of 1822), s. 4 (2), *post*, p. 210.

³ The words "with the sanction of the Governor General in Council," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[Ben. Reg. 29 of 1814.]

(Secs. 4, 5.)

Amount
payable to
zamindar
of
Birbhum.

Disposal of
tenure of
ghatwals
falling
to
discharge
rents.

4. The difference between the amount of the revenue assessed on the *ghatwals* and the fixed assessment of revenue in this portion of the *zamindari* of Birbhum payable to Government shall be paid to the *zamindar* of Birbhum and his heirs and successors, in perpetuity.

5. Should any of the *ghatwals* at any time fail to discharge their stipulated rents, it shall be competent for the ¹[Local Government]

to cause the *ghatwali* tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the ¹[Local Government] may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or

to dispose of it in such other form and manner as shall be judged by the ¹[Local Government] proper.

Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the *zamindar* of Birbhum, his heirs and successors.

¹The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 743.

BENGAL REGULATION 5 OF 1816¹

(THE BENGAL KANUNGOS REGULATION, 1816)¹,

(16th February, 1816.)

A Regulation for establishing the Office of Kanungo in the district of Cuttack, the pargana of Pataspur, and the several parganas dependent on it.²

1. Whereas the establishment of the office of kanungo in the district of Cuttack, the pargana of Pataspur and its dependencies³ may be expected to be of great public benefit in removing the obstacles which have hitherto impeded the revision of the settlement of the district and parganas above-mentioned,² and in otherwise facilitating the collection of the public revenue and the administration of justice; the following rules have been enacted³

Preamble.

2. One or two persons shall be appointed to fill the office of kanungo in every pargana of the district of Cuttack, in the pargana of Pataspur, and in the several parganas dependent on it,² unless the small extent of a pargana shall render it advisable to place more than one pargana under the same kanungo.

Appointment of kanungos.

3. These officers shall be nominated by the Collectors⁴ of Cuttack and Hijli² within their respective local jurisdictions, for the approval of the Board of Revenue,⁵ and shall not be removable from office, except for sufficient cause proved to the satisfaction of that authority⁶

Nomination and removal.

4. The office of kanungo is declared not to be hereditary; but, in all parganas in which persons may be found who formerly discharged the duties of kanungo, the officers to be appointed under this Regulation shall, as far as practicable, be

Office of kanungo not hereditary.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 726.

LOCAL EXTENT.—This Regulation was extended generally to the former Province of Bengal by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (1), post, p. 166; but it may be suspended in any mahal—see *ibid.*, s. 4 (4), post, p. 166.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), post, p. 790.

FURTHER ENACTMENTS.—For further enactments relating to Kanungos and Patwaris, see—the Bengal Kanungos and Patwaris Regulation, 1817 (12 of 1817), post, p. 141, and the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), post, p. 166.

² The words printed in italics are obsolete, this Regulation having been extended to the whole of the former Province of Bengal by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (1), post, p. 166.

³ The commencement clause, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

⁴ As to the exercise of functions of the Collector under this Regulation by other officers, see—the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), post, p. 166, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 248.

⁵ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), post, p. 210.

⁶ The words and figures “under the provisions of Regulation 5, 1804, and Regulation 9 1809,” which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 5-7.)

selected from them; and in supplying future vacancies the Collectors¹ shall make it a rule, in all practicable cases, to select from the families of the *kánungos* such persons as from character, education and acquirements shall be best qualified to perform the duty.

Salaries of
kánungos.

5. The *kánungos* appointed under this Regulation shall receive such salaries as the ²[Local Government] may think proper to fix for their support.

Revenue of
lands held by
kánungos
liable to
resumption.

The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of *nánkár*, or any other denomination.

It is also hereby declared that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of *kánungos*, will be liable to resumption³ by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of *kánungo* under the present Regulation, and to those who may not be employed in the public service.

Exception.

Nothing, however, contained in this provision shall be construed to preclude the ²[Local Government] from continuing to either of those classes of persons the whole or a part of the lands held by them respectively free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.

Duties of
kánungos.

6. The above rule is not to preclude claims to rent-free lands, or pensions held by the *kánungos* under grants made to the individuals for reasons unconnected with the office of *kánungo*.

7. The *kánungos* are to execute the duties herein specified—

First.—To keep a counterpart *jama-wásil-báki*, or account of the collections made by the *tahsildars* or by *sazáwals* from lands held *khas* or under attachment.

Second.—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector¹ all escheats of such lands to Government.

Third.—To keep a list of the *patwáris* in each village, and a register of *pattas* granted by the landholders to their under-tenants.

Fourth.—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to

¹ As to the exercise of functions of the Collector under this Regulation by other officers, see the Bengal Kanungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² The words "Governor General in Council," in the original text, are to be read as if the words "Local Government," were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 743.

³ For power to continue *minkaidars* in possession of lands the revenue of which has been resumed, and for declaration as to the heritability and transferability of *minkaidari* tenures, see the Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands), Regulation, 1825 (18 of 1825), ss. 2, 3, *post*, pp. 284, 285.

of 1816.]

(Secs. 8-11.)

attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

Fifth.—To compile information regarding local boundaries of *parganas* and estates; the number and names of villages, articles of produce, rates of rent, rules and customs established in each *pargana*; and to furnish at the requisition of the Courts of Justice and of the Collectors,¹ all local information within their cognizance.

Sixth.—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or *raiyats*, and to record the same.

Seventh.—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue.²

Eighth.—To report to the Collector¹ the death of a *māl-guzār* and the name of his heirs, and to keep a register of all successions to lands.

8. Persons who may be selected to fill the office of *kānungo* are hereby prohibited from holding farms, or from becoming sureties for farmers or *zamindars*, within the local limits of their official duties.

Kānungos not to hold farms or become sureties.

9. On the death, resignation or removal of a *kānungo*, the records of the office are to be made over to his successor, and the Magistrate of the *zila* is enjoined, on the application of the Collector,¹ to interpose his authority, in all cases in which it may be necessary to enforce the surrender of such records.

Transfer of records to successors.

10. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section to deliver them up on the requisition of the Magistrate is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed * * * for resistance to the process of the Magistrate.

Punishment on refusal to give them up.

11. Nothing contained in this Regulation shall be construed to preclude the '[Local Government]' from exercising the right of decreasing the number of *kānungos*; of abolishing the office in any *pargana* where from local circumstances the duty may be performed by less than two persons or by the *kānungos* in a neighbouring *pargana*; nor from exercising the right to increase the number of *kānungos* in any *pargana* where from circumstances more than two may be found necessary.

Right of Government to vary number of kānungos.

¹ As to the exercise of functions of Collector under this Regulation by other officers, see—the Bengal Kānungos and Patwāris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

³ The words "by the Regulations," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 743.

(Sec. 12.)

Collectors to
report when
variations are
necessary.

12. The Collectors¹ of *Cuttack and Hili*² are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of kanungos in a pargana, with their reasons at large for such opinion.

¹ As to the exercise of functions of the Collector under this Regulation by other officers, see—
the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² The words printed in italics are obsolete, this Regulation having been extended to the whole of the former Province of Bengal by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819) s. 4 (2), *post*, p. 165.

BENGAL REGULATION 12 OF 1817

(THE BENGAL PATWARIS REGULATION, 1817).

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BENGAL REGULATION 12 OF 1817

(THE BENGAL PATWARIS REGULATION, 1817).¹

(12th August, 1817.)

A Regulation for securing the better administration of the office of *patwari*

1. The existing Regulations regarding *patwari*s have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and villages, and the execution of decrees of the Courts of Judicature, in regard to the possession and property of land : the reform of the office appears therefore to be an object of the highest importance :

Preamble.

The following rules have therefore been enacted

2. (*Repeal of enactments relating to appointment of patwari*s.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

3. Every village paying, or liable to pay, the public revenue shall have a separate *patwari*, except in cases where the Board of Revenue or other authority exercising the power of that Board shall, in consideration of former usage or other sufficient cause, authorise one *patwari* to do the duty of two or more villages, or direct two or more *patwari*s to be established in a single village.

Every village to have separate *patwari*.

4 to 6. (*Every village to have a separate patwari; continuation of patwari*s now in office ; procedure in nominating *patwari*s.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

7. Whenever a vacancy may occur in the office of *patwari*, such vacancy shall be filled on the nomination of the *zamindar* or other landholder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such

Vacancies how filled up

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post*, p. 726.

LOCAL EXTENT.—This Regulation was extended to the former Province of Bengal generally by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (2), *post*, p. 165; but it may be suspended in any *maddal*—see *ibid*, s. 4 (4). Power to suspend the operation of the Regulation temporarily in the Chittagong district and other parts of the Province was given by Bengal Reg. 1 of 1819, s. 4 (6), *post*, p. 165.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² The words in the title and s. 1 as to local extent, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ The clause in s. 1 as to commencement and local extent, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

(Secs. 8-11.)

nomination to the Collector¹ of the district within one month after the vacancy has taken place:

Provided, however, that in such nomination the *zamindar* or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of *patwāris*, and shall not deviate therefrom without previously obtaining the sanction of the Collector,¹ and it shall be the duty of the Collectors¹ carefully to see that this rule is observed, and particularly that the just rights of the inferior *pattidars*, or sharers in joint undivided estates, and of dependent *tilkdars*, or other under-tenants of the lands, as connected with the appointment of *patwāris*, are duly maintained.

Procedure of Collector on receiving nomination of *patwāri*.

8. On receiving the report of the nomination of a *patwāri*, as directed to be made in the foregoing section, the Collector¹ is to insert the name of the party in the register of *patwāris* for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue², * * * *³ and the Board² * * * will decide whether the *zamindar* or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.

Rules regarding *patwāris* in joint and undivided estates.

9. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound * * * *⁵ to nominate a *patwāri* in the mode prescribed in * * * *⁶ this Regulation, or to show sufficient cause for their failing to do so.

Rules as to *patwāris* in *khas* estates.

10. In estates held *khas*, and in estates under the superintendence of the Court of Wards, the *patwāri* shall be appointed by the Collector¹.

Penalty in cases of refusal or omission to comply with rules.

11. Should any *zamindar* or other proprietor or farmer refuse or omit * * * *⁸ to nominate a *patwāri* in the cases provided for in * * * *⁶ this Regulation within the time prescribed * * * *⁹, and shall fail to show good cause for such neglect or failure, it shall be competent to the Collector,¹

¹ As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwāris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(1), *post*, p. 210.

³ The words "the Board of Commissioners, or the Commissioner in Bihār and Benares, as the case may be," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁴ The words "or Commissioner," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁵ The words and figures "to furnish the Collector with the statement required in section 4 and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ The words and figures "sections 5 and 7 of," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁷ Section 11 is explained by the Bengal Kánungos and Patwāris Regulation, 1819 (Ben. Reg. 1 of 1819), s. 6, *post*, p. 166.

⁸ The words and figures "to furnish the statement required by section 4 or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁹ The words "in those sections," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

of 1817.]

(Secs. 12-16.)

with the approval of the Board of Revenue,¹ * * * to levy a daily fine upon him until a *patwári* is nominated, or, with such approval, himself to nominate a qualified person for the office.

12. Whenever a *zamindar* or farmer engaging with Government for the public revenue may wish to remove a *patwári* from office, he is to state his reasons for so doing to the Collector² of the district, who, if they appear good and sufficient, will authorize the removal of the *patwári*, but not otherwise.

Procedure of
zamindars
wishing to
remove
patwári.

13. Any *zamindar* or other landholder or farmer of land removing a *patwári* from office without the authority of the Collector³ obtained in the mode prescribed in the preceding section shall be punished by a fine not exceeding fifty rupees for the first offence and one hundred rupees for the second offence;

Penalties for
removing
patwári
without
authority.

and if it should appear, on investigation by the Collector,³ that the removal was unjust and without sufficient cause, the said *zamindar* or other landholder or farmer of land shall be further subject to a daily fine, with the approbation of the Board of Revenue¹ * * * but not otherwise, until the *patwári* be restored.

14. Whenever the inferior *pattidárs*, or sharers, or the *raiýats* or under-tenants of a village may petition the Collector³ for the removal of the *patwári*, the Collector³ shall direct such removal, and shall call upon the *zamindar* or other landholder or farmer of land engaging with Government for the public revenue to appoint another *patwári*:

zamindars
removable on
representation
of under-
tenants.

Provided the reasons adduced for praying such removal appear to the Collector³ good and sufficient, but not otherwise.

15. Whenever a Collector³ shall see ground to desire the removal of a *patwári* for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue,¹ * * * [as the case may be], who will authorize the removal or not, as may seem proper.

Procedure of
Collector
desiring to
remove
patwári.

16. The duties of the *patwári* shall be—

Duties of
patwári.

First.—To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue,¹ * * * together with such further registers and accounts as may be directed by those authorities respectively.

¹ As to the exercise of functions of the Board of Revenue by the other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

² The words "the Board of Commissioners, or the Commissioner in Bihár and Benares, as the case may be," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ As to the exercise of functions of the Collector under this Regulation by other officers, see— the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4(3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 25, *post*, p. 248.

⁴ As to the extension to other cases of the penalties prescribed in s. 13, see the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 7, *post*, p. 187.

⁵ The words "the Board of Commissioners, or the Commissioner in Bihár and Benares," in ss. 13, 15 and 16, respectively, which were repealed by the Repealing Act, 1876 (19 of 1876), are omitted.

(Secs. 17-20.)

Second.—To prepare and deliver to the *kánungo* of the *pargana*, at the expiration of every six months, a complete copy of the aforesaid accounts showing distinctly the produce of the *khari*f and *rabi* harvests.

Third.—To perform all other duties and services which it has been customary for him to execute.

Transmitting
and recording
patwáris'
accounts.

17. The Board of Revenue¹ * * * will determine on the mode in which the accounts rendered by the *patwári* to the *kánungo* shall be brought forward by the latter, and recorded in the office of the Collectors.³

Payment of
patwáris, and
adjustment of
their allow-
ances in
certain cases.

18. The *patwári* is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several Collectors³ to complete an account of the mode in which such payment is made in the different *parganas* or other local divisions of their districts, and to submit the result of their researches to the Board of Revenue or other authority¹ exercising the powers of that Board; and it shall be competent to the Board of Revenue or other authority¹ aforesaid, with the sanction of the '[Local Government], to increase or reduce the amount of remuneration paid to the *patwáris* and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist.

Remuneration
of *patwáris* in
villages where
none are now
appointed.

19. Where no *patwári* has hitherto been appointed, the amount of the remuneration to the *patwári* who may be appointed under this Regulation, and the mode of its payment, shall be regulated by the Collector,³ with reference to the usage of the adjoining villages.

Procedure on
refusal of
payment of
established
remuneration
to *patwáris*.

20. If the remuneration, which a *patwári* has heretofore regularly received or which may be assigned to him by the Collector³ or other competent revenue authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector,³ who will proceed to an immediate investigation of the facts, and decide according to the usage of the village; and the Collector³ is hereby authorized to compel payment of the amount due to the *patwári*, and to fine the offending party according to his situation and circumstances in life:

Provided always that the fine in no instance exceed fifty rupees.

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 216.

² The words "Board of Commissioners, or Commissioner in Bihár and Benares," in s. 17, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

³ As to the exercise of functions of the Collector under this Regulation by other officers, see—
the Bengal *Kánungos* and *Patwáris* Regulation, 1819 (1 of 1819), s. 4(3), *post*, p. 165, and
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 748.

of 1817.]

(Secs. 21-24.)

21. In all cases in which the decision of the Collector¹ is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the *kánungos* of the *pargana*, as to the custom or usage in reference.

Local usage of *pargana* to be reported by *pargana kánungo*.

22. Collectors¹ of land-revenue are hereby empowered to summon the *patwári* of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him, and to examine him on oath² to the truth of such accounts, and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections and charges of the village or villages to which the said *patwári* may belong.

Power to summon *patwári* and to examine him on oath to the truth of his accounts.

When a Collector¹ shall require the attendance of a *patwári* for the purpose above stated, he is to serve such *patwári* with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.

23. If any *patwári* shall neglect or omit to produce his original accounts on the requisition of a Collector¹, or to give his evidence respecting them, the Collector¹ is hereby authorized and empowered to cause the said *patwári* to be apprehended, and to order him to be confined in the *Diwani* jail of the district until he produce his accounts, or show sufficient cause for not producing them.

Power to compel *patwáris* to produce their accounts.

In such cases the *patwári* shall be sent by the Collector¹ with a *rubakari* to the Judge of the *zila*, stating the purport of the order passed against him; and the Judge shall, on those grounds, commit the *patwári* to jail, and detain him until he produce the accounts, or until the Collector¹ applies for his release.

24. In like manner *patwáris* shall produce all accounts relating to the lands, produce, collections and charges of the village or villages the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court;

Patwáris to produce accounts when required by Courts of Justice.

and if any *patwári* shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such *patwári* to be committed to close custody until

¹ As to the exercise of functions of the Collector under this Regulation by other officers, see—the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 166, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1368-78, Ed. 1909, p. 385.

³ The words "City or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

(Secs. 25-29.)

he produce the accounts, or show sufficient cause for not having produced them.

Power to require attendance of *patwāris* on officers deputed to examine village-accounts and to grant commission to swear *patwāris*.

¹25. In any case in which a Collector² of land-revenue shall have occasion to depute an officer to examine the accounts of any village or villages, he is authorized to require the *patwāris* to attend such officer, and the Collector² is further empowered to grant to such officer a commission to swear³ the several *patwāris* whose accounts are to be inspected, inserting in the commission the name of each *patwāri* to be sworn;

and if any such *patwāri* shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the Collector,² the Collector² is hereby authorized and empowered to proceed against such *patwāri* in the same mode as if he had refused or neglected to attend or to give his evidence before the Collector² himself.

26. (*Patwāris giving false depositions, when guilty of perjury.*) Rep. by the Repealing Act, 1876 (12 of 1876).

Punishment for *patwāris* falsifying or mutilating village-accounts.

27. * * * any *patwāri* who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the *kānūngo* or Collector² false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction, * * * to the penalties which are or may be prescribed for that offence * * * ;

and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

28. (*Existing rules requiring the attendance of proprietors, etc., of lands sold or divided, declared still in force.*) Rep. by the Repealing Act, 1876 (12 of 1876.)

Power to require attendance of Native agents of proprietors whose estates are to be sold, transferred or divided, and to cause them to be examined on oath touching accounts.

29. * * * whenever an estate or the portion of an estate may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector² shall be authorized to require the attendance of all descriptions of Native agents employed by the proprietors or farmers of such estates or

¹ As to the conferment, on Native officers making inquiries preparatory to settlement, of the powers provided by s. 25, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 24, *post*, p. 242.

² As to the exercise of functions of the Collectors under this Regulation by other officers, see—the Bengal *Kānūngos* and *Patwāris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts 1868-73, Ed. 1909, p. 385.

⁴ The words "in like manner" in ss. 27 and 29, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁵ The words "before a Court of Circuit," in s. 27, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ The words "in the Regulations," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

of 1817.]

(Secs. 30-32.)

farms in the management of their lands, or keeping the accounts relating to them, and to examine or to cause them to be examined on oath¹, touching such accounts, in the same manner as he is authorized by sections 22 and 25 of this Regulation to require the attendance to and take or cause to be taken the examination of *patwāris*;

and if such agents shall refuse or neglect to attend the Collector² or his officer, when their attendance may be duly required, or to give their evidence, the Collector² is authorized and empowered to proceed against them in the same manner as is prescribed in the case of *patwāris* refusing or neglecting to attend.

30. * * * ³ the rules contained in sections * * * ⁴ 27 Section 27 applied to Native agents shall be held and considered applicable to all such Native agents employed by proprietors or farmers of land, in the management of their estates or farms, or in keeping the accounts relating to them.

31. Whenever a Collector of land-revenue, or other officer vested with the powers of a Collector² may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a *zamindar* or other proprietor or farmer of lands, or of the *gumāshta* or other officer or agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstances to the Board of Revenue * * * and the [Board is] hereby empowered to grant authority to the Collector² or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the *gumāshta* or other officer or agent, with all accounts relating to the lands in their possession or management.

32. A written notice shall in such cases be issued by the Collector² or other officer to the party whose attendance is required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him;

and, if the proprietor or farmer shall omit or refuse to attend, or cause his officer or agent to attend, by the time prescribed in the Collector's² requisition, with the accounts

¹ As to oaths and affirmations, see the Indian Oaths Act, 1878 (10 of 1878), in General Acts, 1868-78, Ed. 1909, p. 385.

² As to the exercise of functions of the Collectors under this Regulation by other officers, see—the Bengal Kánungo and Patwāris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 25, *post*, p. 246.

³ The words "Provided further that," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁴ Section 30, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures and word "26 and" have been omitted.

⁵ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

⁶ The words "the Board of Commissioners, or the Commissioner in Bihar and Benares, according as he may be subject to one or the other of those authorities," in s. 31, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁷ The words "Board is," in s. 31, were substituted for the words "Boards are" by the Amending Act, 1891 (12 of 1891). The words "and Commissioner aforesaid," which occurred after "Boards," were repealed by the Repealing Act, 1874 (16 of 1874), and are omitted.

(Secs. 33-35.)

and information required, the Board of Revenue¹ * * * * are authorized and empowered to impose upon him such daily fine,² to be payable daily until he complies with the Collector's³ requisition, as they may think adequate to his situation and circumstances in life; * * * *.

The fine * * * *⁴ is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Provision in cases where appointment of village *patwari* is inexpedient.

33. In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of *patwāris*, in the mode prescribed in this Regulation, as, for instance, in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small *mahāls*, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue¹ * * * *² to suspend its operation in such estates or farms:

Provided, however, that in all such cases the person by whom the village accounts are kept, whether proprietor or farmer, or *gumāshta* or other officer, shall furnish the *kānūngo* of the *pargana* with such accounts and statement, as the Collector, with the approval of the Board¹ * * * * may direct; and shall be subject to the provisions contained in sections 22, 23, 24, 25 * * *³ and 27 of this Regulation: and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in sections * * *⁴ 27.

In what cases Courts prohibited from taking cognizance of complaints of *patwāris*.

34. No Court of Judicature shall take cognizance of the complaint of a *patwāri* against the landholder, or the tenants of a village, for refusing to remunerate his labours, nor shall any Court of Judicature take cognizance of any complaint against a Collector¹ for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation.

Appeal to Commissioner from decision or order under section 20.

¹¹ **35.** (1) Any person aggrieved by a decision or order of a Collector¹ under section 20 of this Regulation may appeal

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1) *post*, p. 210.

² The words "Board of Commissioners and Commissioner in Bihar and Benares, as the case may be," in s. 32, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ For power of Collector to impose daily fine on proprietors or farmers of land, see also the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 329.

⁴ As to the exercise of functions of the Collector under this Regulation by other officers, see—the Bengal Kanungos and Patwāris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁵ The words "reporting, however, the amount for the information of the Governor General in Council," in s. 32, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁶ The words "when confirmed by Government," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁷ The words "the Board of Commissioners or the Commissioner in Bihar or Benares, as the case may be, in s. 33, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁸ The words "or Commissioner," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁹ Section 33, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures "26" have here been omitted.

¹⁰ For the reason stated in foot-note⁹ the figures and word "26 and" have here been omitted.

¹¹ This section was substituted for the original s. 35 by the Amending Act, 1891 (12 of 1891), *Sohn II—see General Acts, 1887-97, Ed. 1909, p. 336.*

of 1817.]

(Sec. 36.)

within six months from the date thereof to the Commissioner of the Division.

(2) The Commissioner may reverse or alter any such decision or order in appeal.

36. All sums adjudged by the Collector¹ in favour of a *pâtvari* under section 20, and all fines directed to be levied by this Regulation, shall be recoverable by the same processes as arrears of the public revenue; and all such fines, when recovered, shall be carried to the account of Government.

Recovery and
appropriation
of fines, etc.

¹ As to the exercise of functions of the Collector under this Regulation by other officers, see—the Bengal Kánungos and Patwaris Regulation, 1819 (1 of 1819), s. 4(3), *post*, p. 165, and the Bengal Land-revenue Settlement Regulation 1822 (7 of 1822), s. 35, *post*, p. 248.

BENGAL REGULATION 20 OF 1817.

(THE BENGAL POLICE REGULATION, 1817).

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 Second.—Village watchmen subject to Police *darogas*.
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Execution of Criminal Process in the Opium Department; and duties of Darogas relating to that Department.

29. *First.*—Security for appearance of persons employed under Opium Department accused of bailable offences.
 Second.—In such cases, the accused not to be forced to appear till manufacturing season.
 Third.—Rules for serving summonses on witnesses employed in the Opium Department, and form of their recognizance.
 Fourth.—Warrants for offences not bailable to be served upon persons so employed, as upon others;
 the *daroga* giving notice to Agent.
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 Ninth.—Police-officers to suppress illicit cultivation of opium.
 Tenth and Eleventh.—(*Repealed.*)
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Miscellaneous Rules regarding Forts, Armed Men, Military Stores, Dress of Sepoys or Lascars, and Public Roads.

30. *First.*—*Darogas* to report circumstances appearing dangerous to public peace.
 Second.—To apprehend unauthorized persons dressed in uniform of Company's *sepoys*.
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SECTION.

30. *Fifth.*—*Darogas* to report encroachments on public roads.

Sixth.—(*Repealed.*)

31 to 34.—(*Repealed.*)

FORMS Nos. 1 to 5. (*Repealed.*)

FORM No. 6.—Register of village watchmen and Alphabetical List of villages.

FORMS Nos. 7 to 12.—(*Repealed.*)

FORM No. 13. Recognizance to be taken from a witness

FORMS Nos. 14 to 21.—(*Repealed.*)

BENGAL REGULATION 20 OF 1817

(THE BENGAL POLICE REGULATION, 1817).¹

(7th October, 1817.)

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of *darogas* and other subordinate officers of police ; ° ° ° ° °

1 to 8. (*Preamble ; local extent ; repeals ; appointment and removal of police-officers ; rank and functions of officers on thana establishments ; seal and police accoutrements ; police-officers at outposts ; leave rules ; thana records.*) Rep. by the Repealing Act, 1874 (16 of 1874).

9. (*Police returns, etc., to be sent to Magistrates or Superintendents.*) Rep. by Act 17 of 1862.

10, 11. (*Daks for official papers ; prohibition of irregular practises.*) Rep. by the Repealing Act, 1874 (16 of 1874).

12 to 20. (*Charges not cognizable by police ; duties of officers on receiving charges ; rules for holding inquests ; inquiries in case of heinous offences ; search for stolen property ; duties of Police with regard to coiners, etc. ; in case of riots ; in treatment of prisoners ; in regard to notorious offenders.*) Rep. by Act 17 of 1862.

Village watchmen.

'21. First.—It shall be the duty of the *darogas* of police, under the guidance and instruction of the Magistrate, to prepare and keep up at their *thanas* a complete register of the

Darogas to keep complete list of village watchmen.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see post, p. 727.

LOCAL EXTENT.—Ss. 29 and 30 (1), (2) and (5) have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

S. 21 is not mentioned in the Laws Local Extent Act, 1874. That section originally extended, like the whole Regulation, to the whole of the former Province of Bengal—see s. 1, which was repealed by the Repealing Act, 1874 (16 of 1874). S. 21 has been repealed in various places—see foot-note * below.

The unrepealed portions of this Regulation have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 8, to be in force in the following Scheduled Districts namely:—

West Jalpaiguri and the Western Duars, in the Jalpaiguri District—see Vol. IV Pt. IV ; and

the Western Hills, the Tarai and the Dumson Sub-division, in the Darjeeling District—see ib.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), post, p. 790.

* Words in the title which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

* S. 21 has been repealed as to all villages (and Unions) to which the Village Chaudidari Act, 1870 (Ben. Act 6 of 1870), applies and in which a *chaudidar* has been appointed—see Ben. Act 6 of 1870, s. 2, and 1 of 1871, s. 1, in Vol. II of this Code.

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village watchmen employed within the limits of the authority of the said *darogas* respectively, drawn out after the form No. 6 of the Appendix;

Zamindars or others to nominate successor on occurrence of vacancy.

and, upon the death or removal of any of the watchmen, the landholders and other persons to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the *daroga* of the jurisdiction, that they may be registered by him as above directed.

Village watchmen subject to Police *darogas*. Delivery of reports of watchmen residing at a certain distance from the *thanas*.

Second.—The village watchmen are declared subject to the orders of the police *darogas*.

Third.—Village watchmen who may reside within one *kos* of the *thana* station to which they may be subject shall report daily to the *thana* all occurrences connected with the police which may have happened in their respective villages during the preceding twenty-four hours; village watchmen residing from one to three *kos* distant from the *thana* shall furnish similar reports twice every week; and all other watchmen whose residence may be situated at a greater distance shall report once in every week or fortnight, as they may be specially instructed by the police *daroga* so to do.

Occurrences reported by village watchmen to be entered in *thana* diaries.

Fourth.—All occurrences reported by the village watchmen shall be recorded by the *muharrirs* in the *thana* diaries; but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communication to make further than that the peace of their divisions has been undisturbed since their last report.

Proclaimed offenders, etc., to be sent to *thana* by village watchmen.

Fifth.—The village watchmen shall apprehend and send to the *daroga* or other police-officer presiding at a *thana* any person who may be taken in the act of committing murder, robbery, house-breaking or theft; also proclaimed offenders, and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence.

It shall further be the special duty of the village watchmen to convey to the *thana* immediate intelligence of any robbers who may have concealed themselves in their respective villages, or in the adjacent country; and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves.

It shall likewise be the business of the village watchmen to convey early intimation to the *thana* of all murders, robberies, burglaries, thefts, violent affrays and other heinous offences perpetrated in the villages or places in which they may be stationed.

Receiving reports of village watchmen.

Sixth.—The report of the village watchmen to the police-officers of the regular establishments shall be made verbally; and they shall not, unless they appear as prosecutors, be sworn

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to their depositions at the *thanas*, or be detained at the *thanas*, or sent into the Magistrate's Court, unless on account of misconduct, or under the special orders of the Magistrates.

Seventh.—*Darogas* of police shall invariably ascertain and report, when making inquiries on the occasion of any robbery, burglary or theft, the conduct of the village-watchmen; and whether they were present at their post, when the offence was perpetrated; if not, the cause of their absence, and whether there may be reason to believe that they were themselves concerned in, or connived at, the commission of the crime.

Supervision to be exercised by *daroga*.

In the event of any neglect or suspicion of criminality attaching to a village watchman, the *daroga* shall either send the individual to the Magistrate, with a separate report of the grounds of the charge exhibited against him, and evidence to establish the same, or shall forward a report in the first instance and wait the instructions of the Magistrate as the nature of the alleged offence may dictate.

In the event of any gross neglect or misconduct in the discharge of his duty as a police-officer being established against a village watchman, he shall be liable to dismissal from his station by order of the Magistrate, independently of any punishment to which he may be subject for specific acts of criminality under the laws and Regulations in force.

Penalty for negligence or misconduct.

Eighth.—The *darogas* or their police-officers are prohibited, under penalty of dismissal from office, from employing the village watchmen on their private concerns, or on any duties unconnected with the police.

Watchmen not to be employed on *darogas'* private concerns. In places where regular police-establishments are stationed, watching by whom to be performed.

Ninth.—In those towns and villages where the *darogas* of the *mufassal* police jurisdiction, or the officers of outposts, may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular police-officers and the village watchmen; and private watchmen, entertained by individuals for guarding their habitations, shops or warehouses, shall also afford their assistance, and be considered subject, in the performance of this duty, to the orders of the police *darogas* of the station.

Tenth.—On the occurrence of a gang or highway robbery, or any robbery by open violence, murder, burglary or theft, attended with wounding, or any other heinous offence, attended with a violent breach of the peace, the village watchmen shall, to the utmost of their ability, resist and endeavour to apprehend the offenders, and shall require the headmen of the village to collect the inhabitants and to oppose and seize the criminals, or to pursue them if they have fled;

Village watchmen to resist robbers and to require *zamindars* and headmen to assist in pursuit and apprehension of criminals.

and it shall be incumbent on the inhabitants of the villages through which, or near to which, the pursuit may lie, to afford, on the requisition of the village-watchmen or other police-officer, every practicable assistance towards the apprehension of the robbers or other offenders, and recovery of any property

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stolen or plundered by them, continuing the pursuit from village to village.

22 to 26. (*Concurrent jurisdiction of police darogas; prosecutors and witnesses; summons, arrest and bail; resistance or evasion of criminal process.*) Rep. by Act 17 of 1862.

27. (*Distrain for arrears of land-rent.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

28. (*Abkari.*) Rep. by the Repealing Act, 1876 (12 of 1876).

Execution of Criminal Process in the ¹(Opium Department); and Duties of Darogas relating to ²(that Department).

Security for appearance of persons employed under Opium Department accused of bailable offences.

29. First.—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any * * * officer or person * * * employed in the * * * Opium Department, the *darogas* of police shall transmit the summons or warrant, under a sealed cover, addressed to the * * * Opium Agent, or the head Native officer of the *arang*, *kothi* or *chauki*, who will either give, or direct sufficient security to be given, for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the *daroga's* process to the *thana*.

In such cases, the accused not to be forced to appear till manufacturing season.

Second.—In cases of bailable nature, in which a person under engagements and employed in the * * * Opium Department, may be summoned under the provisions of the preceding clause, during the manufacturing season, the *daroga* of police shall, with the view of preventing unnecessary interruption to the manufacturer, require the party summoned to appear in person or by *vakil*, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the *daroga* shall in each instance report the reasons which may

¹ The concluding sentence of s. 21 (10), declaring liability to penalty, was repealed by the Repealing Act, 1876 (12 of 1876), and is omitted.

² The words "Opium Department," in the heading prefixed to s. 29, were substituted for the words "Commercial, Salt and Opium Departments" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 386.

³ The words "that Department" were substituted for the words "those Departments" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed., 1909, p. 386.

⁴ The words "weaver, manufacturer, *molungee*, or any" are omitted, as having been repealed—the word "weaver" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

⁵ The words "engaged in the provision of the Company's investment or", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ The words "Commercial, Salt or" are omitted, as having been repealed—the word "Commercial" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

⁷ The words "Commercial Resident, Salt or" are omitted, as having been repealed—the words "Commercial Resident" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

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have influenced him in the exercise of the discretion here vested in him.

Third.—Summonses to . . .¹ any officers or persons . . . employed in the . . . Opium Department, to attend as witnesses, shall be served in the manner directed by the preceding clauses of this section; but the . . . Opium Agent, or the head Native officer of the *arang, kothi* or *chauki* shall, instead of requiring the person summoned to give security, or proceed to the *thana*, take from the witness a recognizance agreeable to the form No. 13 of the Appendix, and shall deliver the same to the officer serving the process.

Rules for serving summonses on witnesses employed in the Opium Department, and form of their recognizance.

Fourth.—If a charge shall be preferred to a police *daroga* against any . . . [any] officer or person . . . employed in the . . . Opium Department, for an offence that is not bailable, and there shall appear to the *daroga* of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

Warrants for offences not bailable to be served upon persons so employed, as upon others;

But the *daroga*, after securing the offender, is to give notice of his apprehension to the . . . Opium Agent, or to the head officer of the nearest *arang, kothi* or *chauki*, as the case may be.

the *daroga* giving notice to Agent.

Fifth to Eighth.—(*Darogas to assist in seizure of illicit salt, to give notice of illicit importations, etc., not to seize in first instance of their own authority; penalty for unwarranted seizure.*) Rep. by the Inland Customs Act, 1875 (8 of 1875).

Ninth.—All officers of police are strictly enjoined, under pain of dismissal from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium . . .

Police-officers to suppress illicit cultivation of opium.

Tenth and Eleventh.—(*Daroga to report illegal cultivation of poppy; to take security for offender's appearance.*) Rep. by the Repealing Act, 1874 (16 of 1874).

¹ The words "weavers, manufacturers, *molungees*, or to" are omitted, as having been repealed—the word "weavers" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

² The words "engaged in the provision of the Company's investment or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words "Commercial, Salt or" are omitted, as having been repealed—the word "Commercial" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing and Amending Act, 1876 (12 of 1876).

⁴ The words "Commercial Resident, Salt or" are omitted, as having been repealed—the words "Commercial Resident" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).

⁵ The words "weaver, *molungee*, or any other manufacturer, or" are omitted, as having been repealed—the word "weaver" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876). The word "any," which follows, has become superfluous.

⁶ The words "Commercial, Salt or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁷ The words and figures "as required by the provisions of Regulation 13, 1816, which are herein recapitulated for their information and guidance," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Sec. 30.)

Penalty for
allowing
illicit culti-
vation.

Twelfth.—Any police *daroga* who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismissal from office for neglect of duty, be further subject, on conviction before the Magistrate of the *zila*, to the payment of the fine stated in ¹[Act 13 of 1857, section 21.] for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.

*Miscellaneous Rules regarding Forts, Armed Men, Military Stores, Dress of Sepoys or Lascars, and * * * Public Roads * * **

*Darogas to
report cir-
cumstances
appearing
dangerous
to public
peace.*

30. First.—The *darogas* of police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or *garh*, or collecting together any quantity of arms, ammunition or military stores.

To apprehend
unauthorised
persons
dressed in
uniform of
Company's
sepoys.

Second.—The *darogas* of police are required to apprehend and send to the Magistrate * * * all persons, not actually in the Honourable Company's² military service or belonging to persons specially exempted by Government from the operation of the rule contained in the section above-mentioned, who may be found dressed in the uniform of Company's *sepoys* or *lascars*, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country people for *sepoys* and *lascars*.

Third.—(Police to apprehend certain Native officers, etc., travelling in uniform when not employed on public service.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Fourth.—(Darogas to apprehend persons wearing badges.) *Rep. by Act, 18 of 1835.*

*Darogas to
report
encroachment
on public
roads.*

Fifth.—The *darogas* of police shall prevent all encroachments on the public roads, and shall, at the same time, report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his *thanadari* proceedings.

¹ These words and figures in square brackets in s. 29 (12) were substituted for the words and figures "section 51, Regulation 13, 1816," by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 336. Act 13 of 1857 (the Opium Act, 1857) is printed *post*, p. 361.

² The word "Badges," in the heading prefixed to s. 30, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

³ The words "and Inane Persons," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ The words and figures "in pursuance of section 9, Regulation 11, 1806," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The Government of British India was transferred from the East India Company to the Crown by the Government of India Act, 1858 (21 & 22 Vict., c. 106), s. 1, printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 301.

(Secs. 31—34—Forms.)

Sixth.—(Persons dangerously insane to be sent to sadar station.) Rep. by the Repealing Act, 1874 (16 of 1874).

31. *(Judges of Circuit, and Europeans.) Rep. by the Repealing Act, 1874 (16 of 1874).*

32. *(Despatches of treasure.) Rep. by the Repealing Act, 1876 (12 of 1876).*

33, 34. *(Rules relating generally to landholders, managers of estates, etc.; police of cities.) Rep. by the Repealing Act, 1874 (16 of 1874).*

FORM NO. 1.

Repealed by the Repealing and Amending Act, 1891 (12 of 1891)

FORMS NOS. 2 AND 3.

Repealed by Bengal Regulation 7 of 1829.

FORMS NOS. 4 AND 5.

Repealed by the Repealing and Amending Act, 1891 (12 of 1891).

FORM NO. 6.¹

REGISTER OF VILLAGE WATCHMEN, AND ALPHABETICAL LIST
OF VILLAGES.

Names of Villages.	Distance and Direction from the Thana station.	Names of the Proprietors or managers, and situated in what Pargana.	Names of the <i>Chaukidars</i> or Watchmen attached to each Village.	Estimated Number of Houses in each Village.	REMARKS.

FORM NO. 7.

Repealed by the Repealing and Amending Act, 1891 (12 of 1891).

¹ Form No. 6 is referred to in s. 24 (1), ante, p. 158.

(Forms.)

FORM No. 8.

Repealed by Bengal Regulation 7 of 1829.

FORMS Nos. 9 TO 12.

*Repealed by the Repealing and Amending Act, 1891 (12 of 1891).*FORM No. 13.¹

RECOGNIZANCE TO BE TAKEN FROM A WITNESS.

WHEREAS I _____, inhabitant of _____, have been named as a witness in the case of _____ : I hereby engage to appear before the Magistrate of the zila _____ (or city) of _____, on or before the _____, for the purpose of giving evidence; in default whereof I hereby further bind myself to pay such fine to Government as the Magistrate may judge proper to impose upon me, as well as any expense that may be incurred in consequence of my non-attendance, for compelling my appearance: in this I will not fail. Dated _____ (according to the current era).

FORM No. 14.

Repealed by Bengal Regulation 7 of 1829.

FORMS Nos. 15 TO 21.

*Repealed by the Repealing and Amending Act, 1891 (12 of 1891).*¹ Form No. 13 is referred to in s. 29 (3), *ante*, p. 157.

BENGAL REGULATION 3 OF 1818

(THE BENGAL STATE PRISONERS REGULATION, 1818)¹.

(7th April 1818.)

A Regulation for the confinement of State Prisoners.

1. Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

Preamble.

and whereas it is fit that, in every case of, the nature herein referred to the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see post, p. 642.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, post, p. 182.

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri and the Western Duars, in the Jalpaiguri District—see Vol. IV, Pt. IV.

It has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 5, to the Darjeeling District—see Vol. IV, Pt. IV.

It is in force in the Chittagong Hill-tracts—see Vol. IV, Pt. VII.

It has been declared by the State Prisoners Act, 1858 (3 of 1858), s. 2 (in General Acts, 1834-67, Ed. 1909, p. 146), to be in force within the local limits of the jurisdiction of the High Court.

PENALTIES.—For penalties for allowing a State prisoner to escape, for aiding or assisting him to escape, for rescuing, harbouring or concealing him, and for resisting his re-capture, see the Indian Penal Code (Act 45 of 1860), ss. 128 to 130, in General Acts, 1834-67, Ed. 1909, p. 280.

REMOVAL OF STATE PRISONERS.—For power of the Governor General in Council to remove State prisoners from one place to another, see the State Prisoners Act, 1858 (3 of 1858), s. 5, in General Acts, 1834-67, Ed. 1909, p. 147.

The High Courts' *habeas corpus* section in the Code of Criminal Procedure, 1898 (Act 5 of 1898), does not apply to persons detained under this Regulation—see s. 491 (3) of the Code, in General Acts 1898-1909, Pt. I, para. 110.

(Sec. 2.)

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of *zamindars*, *talukdars* and others situated within the territories dependent on the Presidency of Fort William¹ should be attached and placed under the temporary management of the Revenue Authorities without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect, throughout the provinces immediately subject to the Presidency of Fort William,¹ from the date on which they may be promulgated.

Proceeding
for placing
persons
under
restraint as
State
Prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of
warrant.

Second.—The warrant of commitment shall be in the following form:—

To the ¹ (*here insert the officer's designation*).

“Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*), you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation 3 of 1818.

“Fort William, the

“By order of the Governor General in Council,

“A. B., Chief Secy. to Govt.”

Authority of
warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² As to the officers to whom warrants may be addressed, see the State Prisoners Act, 1850 (84 of 1850), in General Acts, 1884-87, Ed. 1909, p. 89, and the Prisoners Act, 1871 (5 of 1871), s. 15, in General Acts, 1868-73, Ed. 1909, p. 169.

of 1818.]

(Secs. 3-8.)

fortress, jail or other place within the territories subject to the Presidency of Fort William.¹

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

Officers having custody of State prisoners to submit periodical reports.

4. *First.*—When any State prisoner is in the custody of a Zila Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of Zila or City Magistrate, by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila Magistrate, the Governor General in Council will instruct either the Zila Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner.

State prisoners in custody of public officer, not being Zila or City Magistrate, by whom to be visited.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Representations by State prisoners to be submitted to Government.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Report to Government regarding confinement, etc., of prisoners.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

Appropriation of allowance for support.

8. (*Applicability of ss. 3 to 7 to persons now confined as State prisoners.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

¹This includes the present Presidency of Fort William in Bengal and other territory.

²The words "or City," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³The words "of Circuit," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 9-11.)

Attachment
of estates by
order of
Government
without
decision of
Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any *zamindar*, *jagirdar*, *talukdar* or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated,¹ [and] * * *² to the *Sadar Diwāni Adālat* and *Nizāmat Adālat*.

Management
of attached
estates.

10. *First*.—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department; and the collections shall be made and adjudged on the same principles as those of other estates held under *khas* management.

Attached
lands not
liable to sale
in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government
to arrange for
satisfaction of
decrees.

Third.—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to
cases where
Government
orders release
of estate from
attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

¹ This word "and," in s. 9, was inserted by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II.—see General Acts, 1887-97, Ed. 1909, p. 336.

² The words "to the Provincial Court of Appeal and Circuit, and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

BENGAL REGULATION 1 OF 1819

(THE BENGAL KANUNGOS AND PATWARIS REGULATION, 1819).¹

(5th February, 1819.)

A Regulation ° ° ° for re-establishing *Kanungos* and re-forming the office of *Patwar* throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation 12, 1817.¹

1 to 3. (*Preamble; controlling Revenue-authorities in Dinajpur, Rangpur and Gorakhpur.*) Rep. by the Repealing Act, 1873 (12 of 1873).

4. First.—*Kanungos* shall be appointed throughout the Province of Bengal in the same manner, and for the performance of the same duties, as are prescribed in Regulation 5, 1816,⁴ in regard to the district of Cuttack, the *pargana* of Pataspur and its dependencies; and all the rules contained in the Regulation aforesaid are hereby extended generally to the Province of Bengal.

Appointment of *kanungos* throughout Bengal.

Second.—The provisions of Regulation 12, 1817,³ are in like manner hereby extended to the several districts of the said Province to which they have not yet been applied.

Regulation 12 of 1817 extended.

Third.—Provided, however, that in cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the *kanungos* to the Collector of the district, it shall be competent to the ° [Local Government] to appoint such other officer specially to perform that duty, as ° [it] may judge expedient; and the officer so appointed shall have and exercise, during such period as the ° [Local Government] may direct, the same powers as are vested generally in Collectors of land-revenue under the provisions of Regulation 5, 1816⁴, and Regulation 12, 1817³.

Nomination of *kanungos* by persons other than Collectors.

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 727.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—see s. 4 (1); but it may be suspended in any *mahal*—see s. 4 (4), and its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² The words “for replacing the districts of Dinajpur and Rangpur under the management of the Board of Revenue; for extending the authority of the Board of Commissioners in Bihar and Benares to the district of Gorakhpur,” which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The Bengal *Patwaris* Regulation, 1817. It is printed *ante*, p. 141.

⁴ The Bengal *Kanungos* Regulation, 1816. It is printed *ante*, p. 135.

⁵ The words “Governor General in Council,” in the original text, are to be read as if the words “Local Government” were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 744.

⁶ The word “he” in the original text is to be read as if the word “it” were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 744.

(Secs. 5, 6.)

such district from discharging the ordinary duties of his situation under the general rules and Regulations applicable to that branch of the public service.

Power to suspend operation of rules regarding *kanungos* and *patwáris*.

Fourth.—Provided further that it shall be competent to the¹ [Local Government] to suspend the operation of the rules contained in this or any former Regulation, regarding *kanungos* and *patwáris*, within any *maháls* in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.

Board of Revenue may alter duties of *kanungos*.

Fifth.—Provided likewise that it shall be competent to the Board of Revenue or other authority exercising the powers of that Board² to make such alteration in the duties to be performed by *kanungos* as local circumstances shall suggest

And suspend operation of Regulation 12, 1817, in certain places.

Sixth.—Provided also that it shall be competent to the Board of Revenue² to suspend by proclamation the operation of the rules of Regulation 12, 1817⁴, in the districts of Chittagong * * *⁵ and in any other parts of the country in which individual estates may generally be of inconsiderable extent, until they shall have determined, under the discretion vested in them by sections 3, 18 and 33 of that Regulation, the number of *patwáris* to be appointed or retained, the mode in which they are to be remunerated and the *maháls* to be permanently exempted from its general operation.

Collector may nominate and appoint *patwári* in certain cases.

5. In all cases in which any village or villages, or any lands whatsoever the accounts of which may be kept by a single *patwári*, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector⁶, with the approval of the Board of Revenue² or other authority exercising the powers of that Board², to assume the direct nomination and appointment of such *patwári*, with or without a reference to the proprietors.

But in all such cases the Collector⁶ shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the *maháls* in question.

Explanation of section 11, Regulation 12, 1817.

6. In explanation of section 11, Regulation 12, 1817⁴, it is hereby declared and enacted that, if any proprietor or farmer of land shall refuse or omit to furnish the statement required

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sec. II, *post*, p. 744.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

³ The words and figures "anything in section 7, Regulation 4 of 1808, and other corresponding enactments, to the contrary, notwithstanding," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ The Bengal *Patwáris* Regulation, 1817. It is printed *ante*, p. 141.

⁵ The words "and Sylhet," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁶ As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (3), *ante*, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 218.

of 1819.]

(Sec. 7.)

by section 4¹ of that Regulation within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector,² it shall be competent to the Collector³ or other officer aforesaid, with the approval of the Board of Revenue or other authority exercising the powers of that Board⁴, to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender.

7. The penalties prescribed in section 13, Regulation 12, 1817,⁴ or the illegal removal of a *patwári* from office, by a *zamindar* or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any *patwári* duly constituted or appointed; or who may oppose a *patwári* so appointed or constituted, in the performance of his duties; or who may prevent his performing them, or who may resist or evade the entry of a *patwári*, when duly appointed into the possession of his office.

Penalty for
unauthorized
removal, &c.,
of *patwári*.

¹ Section 4 of Ben. Reg. 12 of 1817 was repealed by the Repealing Act, 1874 (16 of 1874).

² As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (3), *ante*, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (2), *post*, p. 210.

⁴ The Bengal Patwáris Regulation, 1817. Section 13 is printed on p. 143, *ante*.

BENGAL REGULATION 2 OF 1819

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1819].

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REGULATION, 1819.

[Ben. Reg. 2 of 1819.]

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BENGAL REGULATION 2 OF 1819

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS)
REGULATION, 1819].¹

(12th February, 1819.)

A Regulation for modifying the provisions contained in the existing Regulations, regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.

1. The rules contained in Regulations 19² and 37,³ 1793, Preamble. relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified.

Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded appear to be in several respects defective.

If further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title, and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 1—*see post*, p. 727.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 172.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in *General Acts*, 1868-78, Ed. 1903, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 8, to be in force in West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

AMENDMENT.—Ben. Reg. 2 of 1819 is modified by the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), *post*, p. 287.

² The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 47.

³ The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 68.

(Secs. 2, 3.)

which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, *mahals* expressly excluded from the operation of the settlement.

With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.¹

2. (*Repeals.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Lands not included in decennial settlement, etc., liable to assessment, except lands held free of assessment under valid title.

3. *First.*—It is hereby declared and enacted that all lands which, at the period of the decennial settlement, were not included within the limits of any *pargana*, *manza* or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations 19² and 37³, 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled *mahals*; and the revenue assessed on all such lands, whether exceeding one hundred *bighas* or otherwise, shall belong to Government:

Provided

that nothing in the above rule shall be construed to affect the rights reserved to *zamindars*, *talukdars* and other proprietors of estates with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and *taluks*, and of which the extent may not exceed one hundred *bighas* if in Bengal, [*Bihar or Orissa*] * * * 4.

Same principle applicable to *chars* and alluvion lands.

Second.—The foregoing principles shall be deemed applicable not only to tracts of land such as are described to have been brought into cultivation in the Sundarbans, but to all *chars* and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers or the gradual accession of soil on their banks⁵.

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 47.

³ The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 68.

⁴ The words "and fifty *bighas* if within the Province of Benares," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁵ As to the assessment of lands gained from sea or river by alluvion or dereliction, see the Bengal Alluvion and Diluvion Act, 1847 (9 of 1847), *post*, p. 327.

of 1819.]

(Secs. 4, 5.)

Third.—The same principle shall likewise be deemed applicable to all land which, though included at the period of the permanent settlement within the limits of *taluks* held by individuals under special *pattas* from the Collector, such as the *patitábádi* and *jangal-bari taluks* in the districts of the 24-Parganas and Jessore, may not have been permanently assessed at the above-mentioned period:

Also to lands included within particular *taluks*.

Provided, however, that in respect to such lands, if in the possession of the original *patta*-holder, or his legal representative, the conditions of the *patta* in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.

Proviso.

4. The several rules prescribed in Regulations 19¹ and 37² of 1793 and 12 of 1805³ for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of Government:

Application of existing rules to grants for holding lands under *mukarrari* or other tenures.

Provided, however, that nothing in this section shall be construed to affect the rules contained in Regulation 8, 1793⁴, relative to the assessment of lands held under valid grants or leases of the above nature * * *

Proviso.

5. *First.*—Whenever a Collector⁵ of revenue or other officer⁶ exercising the powers of Collector shall have reason to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate *jama*, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue⁷ or other authority exercising the powers of that Board⁸, who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector⁹ or other officer⁸ aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

Power to direct investigation regarding liability of lands to be assessed.

Second.—The Collector⁹ on receiving the authority of the Board of Revenue⁹ shall call the party before him by a notice

Notice par^v.

¹ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante* p. 47.

² The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante* p. 63.

³ The words and figures "and Regulations 41 and 42 of 1795, Regulations 31 and 36 of 1805, Regulations 8," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 97.

⁵ The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.

⁶ The words and figures "nor to alter the provisions contained in Regulation 1, 1815, by which tenures of that description are declared liable to assessment on the death of the grantee," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁷ Section 5 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 271.

⁸ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822) s. 85, *post*, p. 248.

⁹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

(Sec. 5.)

stating the demand of Government on the lands, and requiring him to attend either in person or by *vakil*, within the period of one month, and to produce all *sanads* or other writings in virtue of which he may possess the lands, or under which they may have been, or may be, claimed to be held free of assessment, or at a fixed *jama*.

Third.—If the persons whose lands it is proposed to assess have an accredited agent at the *sadar* station, with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a *chaprasi* or peon of the Collector.

Fourth.—If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the *sadar* station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the Collectorship, it shall be served on him through the *nazir* of the Collector by a single *chaprasi* or peon, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence.

If the party be resident within the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector¹ of the district in which the party may reside, to be served in the manner above directed.

If the party be neither resident within the Collectorship in which the lands in question may be situated, nor in any other Collectorship, the notice shall be served upon his agent or representative in charge of the lands.

Fifth.—Provided always that, if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands or in the nearest village.

Sixth.—The Collector¹ shall, in the notice summoning the party, warn him that, if he withhold any writings of the nature specified in the second clause of this section within the period prescribed, they will not afterwards be received unless

Or to his agent if accredited agent reside at *sadar* station.

Notice on principal to be served through *wazir* by single peon.

Notice how served if party reside in another jurisdiction.

If acknowledgment be refused, tender of notice sufficient service.

Contents of notice.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 86, *post*, p. 248.

of 1819.]

(Secs. 6, 7.)

he shall show good and sufficient cause for not producing them and shall assign such cause on his appearing before him.

¹6. *First*.—If the holder of such lands to whom a notice may have been issued as directed in the preceding section shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer² exercising the power of Collector, on receiving the *nazir's* return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his *cutcherry*.

If notice cannot be served, proclamation to be issued.

The proclamation shall be written ³[in the vernacular of the district], and it shall contain a copy of the former notice and a further notification to the party that, if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector² will proceed, without further notice, to hold the inquiry *ex parte*.

The Collector or other officer² exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable despatch on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed.

Second.—The *nazir* shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up.

Nazir's return how made.

The return of the *nazir* shall be filed with the Collector's² proceedings in the case.

If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the Collector² shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof.

If party does not appear, or refuses to answer, case to be investigated.

7. In cases of land supposed to be liable to assessment under the provisions of section 3 of this Regulation, the Collector or other officer² exercising the powers of Collector shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement, and, in cases of alluvion land, into the period of its formation.

What inquiry to be made.

¹ Section 6 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825) s. 5, *post*, p. 271.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ These words in square brackets in s. 6 were substituted for the original words by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 286.

(Secs. 8-11.)

Collector with
sanction of
Board may
cause survey
or
measurement.

¹8. When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector², with the sanction of the Board of Revenue or other authority exercising the powers of that Board³, previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.

Collector may
summon
patwāri, and
require
accounts and
examine on
oath.

²9. It shall likewise be competent to the Collector,² in all cases of inquiry held under the provisions of this Regulation, to summon the *patwāri*, *gumashita* or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept and to require him to produce all accounts relating to such lands or estate, and to examine him on oath⁴ to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation 12 of 1817⁵.

And may
require
attendance of
person claim-
ing land, with
his accounts.

³10. It shall be further competent to the Collector² in such cases, with the sanction of the Board of Revenue or other authority exercising the powers of that Board,³ to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate within a reasonable period, not being less than one week.

Notice to such
person.

⁴11. * * Whenever the Collector or person exercising the powers of Collector² shall require the attendance of any proprietor or farmer, or of any *patwāri* or *gumashita* or other officer for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.

Second. (Mode of serving notice.) Rep. by the Repealing Act, 1876 (12 of 1876).

¹ Section 8 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 271.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 65, *post*, p. 248.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(1), *post*, p. 210.

⁴ As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 386.

⁵ The Bengal Patwaris Regulation, 1817. S. 22 of the Regulation is printed *ante*, p. 145.

⁶ Section 10 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 271.

⁷ Section 11 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 238, and modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, *post*, p. 271.

⁸ The word "*First*" was repealed by the Repealing Act, 1876 (12 of 1876), and is omitted.

of 1819.]

(Secs. 12, 13.)

¹ 12. If any *patwari*, *gumashta* or other person by whom the accounts of lands are kept, and who may be summoned by a Collector² [*or Commissioner*] under the provisions contained in sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector² [*or Commissioner*], or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector² [*or Commissioner*], when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong,³ [he] shall be and be held liable to the pains and penalties specified in sections 23 * * * and 27 of Regulation 12, 1817⁵, according as the provisions of one or other of those sections may be applicable to the offence committed by him.

Penalties on *patwari* neglecting to produce accounts, falsifying them or giving false evidence.

⁶ 13. *First*.—If the holder of any lands in regard to which the Collector² shall have been authorized by the Board of Revenue or other authority exercising the powers of that Board⁷ to institute the inquiry described by section 7 of this Regulation shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's² requisition, the Board of Revenue or other authority exercising the powers of that Board⁷ shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government.

Lands may be attached, if holders neglect to furnish accounts.

In such cases, however, it shall still be the duty of the Collector² to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board,⁷ who will decide whether the lands shall be deemed permanently liable to assessment.

Inquiry in such cases.

Second.—Provided further that, if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue-authorities, and shall produce any accounts or documents besides such as he may have delivered to the Collector,² the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced.

Accounts not furnished to Revenue authorities not afterwards to be received in evidence in suits to contest their decision. Exception.

¹ Section 12 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822) s. 19 (2), *post*, p. 238.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35 *post*, p. 248.

³ This word "he" in s. 12 was inserted by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 386.

⁴ The figures "26," in s. 12, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁵ The Bengal *Patwari* Regulation, 1817. Ss. 23 and 27 are printed *ante*, pp. 145, 146.

⁶ Section 13 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 6, *post*, p. 271.

⁷ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *post*, p. 210.

(Sec. 14.)

the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's¹ requisition, or show good cause for not having done so.

Fines for non-attendance of proprietor or agent, or for omission to furnish accounts.

² *Third*.—Provided also that, if any proprietor or farmer shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector¹ [*or Commissioner*,] by the time prescribed in the notice issued by the Collector¹ [*or Commissioner*,] or shall omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the Board of Revenue or other authority exercising the powers of that Board,³ are authorized and empowered to impose upon him such daily fine⁴, to be payable daily, until he complies with the Collector's¹ requisition, as they may think adequate to his situation and circumstances in life, reporting, however, the amount for the information of the⁵ [Local Government].

The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Penalties for resistance of process.

⁶ **14.** If any *zamindar* or other person shall resist, or cause to be resisted, the attachment or measurement of lands which the Board of Revenue³ or other authority exercising the powers of that Board³ shall have authorized the Collector¹ [*or Commissioner*] to attach or measure under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector¹ [*or Commissioner*] to compel a *pātwāri*, *gumashta* or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in section 9 of this Regulation, it shall be competent to the Board of Revenue³ or other authority exercising the powers of that Board,³ on being satisfied that he is guilty of the charge, to adjudge the *zamindar* or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue :

Proviso.

Provided, however, that, if the fine shall exceed five hundred rupees, the Board³ shall submit a report of the case to the⁵ [Local Government], and shall not proceed to levy the fine

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² Clause *Third* of s. 13 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 288.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

⁴ For power of Collector to impose a daily fine, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 329.

⁵ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 744.

⁶ Section 14 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 288.

of 1819.]

(Secs. 15-19.)

until they shall receive authority from Government for that purpose.

¹15. When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons, and shall deliver up his title-deeds, the Collector² shall give a receipt for them, and, after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded.

Procedure when parties attend and produce title-deeds.

The Collector² shall then desire the party to deliver a written answer within seven days.

16. It shall be the duty of the Collector or other officer exercising the powers of Collector² carefully to number, mark, date and sign all documents produced by a *zamindar* or other person in possession of the lands proposed to be assessed in support of his claim to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him;

Procedure in respect of documents produced.

and the Collector² shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

17. On receiving the answer of the party the Collector² shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.

Witnesses for and against claim of Government to be examined.

18. The Collector² shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.

Examination of documents.

³19. *First*.—The Collectors and other officers exercising the powers of Collectors² are hereby authorized to summon witnesses and administer oaths⁴, or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under this Regulation * * * * *

Collector's authority to summon witnesses and administer oath.

¹ Section 15 has been modified by the Bengal Land-revenue Settlement Regulation, 1826 (9 of 1826), s. 5, printed *post*, p. 271.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ Section 19 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 268.

⁴ As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Bd. 1909, p. 885.

* Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

(Secs. 20, 21.)

Second. (Penalties for perjury applicable to witnesses who affirm.) Rep. by the Repealing Act, 1873 (12 of 1873).

Third. (Penalties for resistance of process.) Rep. by the Repealing Act, 1876 (12 of 1876).

Procedure on
completion
of inquiry.

20. Having closed his proceedings, the Collector¹ shall record his opinion in a * * * *rubakari* detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other authority exercising the powers of that Board,² in such mode as may be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final *rubakari* aforesaid, and reporting his having done so to the Board or other authority³ as aforesaid.

Procedure of
Board on
receipt of
Collector's
proceedings.

21. First.—The Board of Revenue or other authority³ aforesaid, after calling for any further evidence which, on a consideration of the Collector's¹ proceedings, they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector¹ may have furnished the party with a copy of his final *rubakari*, and after hearing anything which the party, if in attendance, may wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a * * * *rubakari*, delivering a copy thereof to the party on his requisition to that effect.

Final *rubakari*.

Second.—The final *rubakaris* which the Collectors¹ and the [Board] are by the provisions of this section directed to record shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken and the title of every exhibit read.

In what cases
decision of
Boards final.

Third.—If the Board of Revenue or other authority³ aforesaid pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.

If land
declared
liable to
assessment,
Collector
to fix
assessment.

Fourth.—In the event of the Board's³ declaring the lands liable to assessment, the Collector¹ shall inform the party or his *vakil* of the decision of the Board³ and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² The word "Persian", in ss. 20 and 21, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), p. 210.

⁴ This word "Board," in s. 21 (2), was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—*see post*, p. 744.

of 1819.]

(Sec. 22.)

¹ **22.** *First.*—If the party shall, within a fortnight of his receiving intimation of the Board's² decision, tender to the Collector³ responsible security for the payment from that date of the *jama* which may eventually be fixed on the land, with interest at the rate of twelve *per cent.*, and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector³ shall leave the party in possession as before, reporting the circumstance for the information of the Board²:

When party may be left in possession of land.

Provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector³ in estimating the amount of the security to be required.

Proviso.

Second.—If the party be willing to give security for a portion only of the *jama* eventually assessable on the land, it shall be competent to him to do so on the conditions above specified.

Procedure of Collector if party do not furnish full security.

In this case the Collector³ shall, under the orders of the Board² either hold the lands *khass* or farm them for such period as the Board² may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

Third.—It shall be competent to the Court to direct the Collector³ to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector³, subject to the directions of the Board², to fix the amount for which the surety is to be held bound.

Court may determine on sufficiency of security tendered.

Fourth.—The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if, at the expiration of one year from the date on which the party may receive intimation of the Board's² decision, the suit shall still be pending, it shall be competent to the Collector³ to require additional security for the same amount.

Amount of security how regulated.

Fifth.—In *mukarraris* the parties giving security, and intending to sue, shall continue to pay the *mukarrari jama*, and will be required to give security for the remaining revenue which may be eventually demandable from them.

Security in case of mukarraris.

¹ Section 22 has been modified and restricted by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 and 8, *post*, pp. 271, and 276, and has also been modified by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10, *post*, p. 300.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(1), *post*, p. 210.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 248.

(Secs. 23-28.)

Final
assessment.

23. If the party do not give security, or, having given security, neglect to sue, the Collector² shall proceed to the final assessment of the land.

Limitation
of suits in
Civil Courts.

24. First.—Persons whose lands may be assessed, either in failure to give security or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's³ decision; but after the above period shall have elapsed the decision of the Board³ shall be final and conclusive.

Proviso.

Provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.

Second.—(Further proviso.) Rep. by the Repealing Act, 1874 (16 of 1874).

25. (Courts in which suits under this Regulation are to be instituted.) Rep. by the Repealing Act, 1874 (16 of 1874).

Appeal from
Zila to Sadar
Court.

26. First.—In cases instituted in the Zila Court * * *,⁴ an appeal shall be received by the Court of Sadar Diwani Adalat * * *.

Procedure of
such appeals.

Second.—* * *⁵ The Sadar Diwani Adalat * * *⁶ in all cases of * * *⁷ appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final *rubakari* filed in the case by the Board of Revenue or other authority exercising the powers of that Board³; and, if on a consideration of those documents the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect, or if, from the nature of the cause, as stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit⁸ [an appeal].

27. (Stamped paper and fees.) Rep. by the Repealing Act, 1874 (16 of 1874).

Validity of
farmans,
sanads or
grants to be
carefully
ascertained.

28. First.—On the production of any written document purporting to be a *farman* of any King of Delhi, or to be a

¹ Sections 23 and 24 have been modified by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10, *post*, p. 300.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

⁴ Section 26 is modified by the Bengal Revenue-free Lands Regulation, 1825 (14 of 1825), s. 6, *post*, p. 291, and is saved by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (4), *post*, p. 301.

⁵ Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.*

⁶ The original words were "a special appeal." The word "special" was repealed by the Repealing Act, 1874 (16 of 1874), and the words "an appeal" were substituted by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 836.

of 1819.]

(Secs. 29-31.)

sanad, parwana or other grant of any *Wazir*, or of any *Nawab*, *Raja* or other potentate or person formerly exercising authority in any part of the Provinces and territories now subject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Second.—Provided also that no document of the above description which may be produced to any Court or *Adalat* shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations 19¹ and 37², 1793, [41 and 42, 1795]³, 8, 1800,⁴ [31 and 36, 1803⁵, and 7, 1808⁶]; or unless due cause be shown for the non-registration.

Such deeds
not to be
received
unless
registered.

29. (*Regulation applied to cases in which Collector suspects validity of original tenures of land, subsequently commuted for money-pensions.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

30. (*Trial by Collectors of resumption and other suits.*)⁶ *Rep. by the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862).*

31. First.—Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded to the full benefit of all waste-lands included within the ascertained boundaries of such estates respectively at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue-authorities in any case in which it shall appear that

Regulation
not to affect
right of
proprietors to
waste-land
guaranteed at
permanent
settlement.

¹ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 47.

² The Bengal Revenue-free Land (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 68.

³ Ben. Regs. 41 and 42 of 1795 and 31 and 36 of 1803 were repealed (except in certain areas) by the N.-W. Provinces Land-revenue Act, 1873 (19 of 1873).

⁴ The Bengal Revenue-free Lands Regulation, 1800. It is printed *ante*, p. 81.

⁵ Ben. Reg. 7 of 1808 was repealed by Act 29 of 1871.

⁶ Suits by proprietors, etc., for the resumption of revenue, and suits by persons claiming to hold land exempt from payment of revenue, are now heard by the Civil Courts like ordinary civil suits—see the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 2, in Vol. II of this Code.

184 THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS)
REGULATION, 1819.

[Ben. Reg. 2 of 1819.]

(Sec. 31.)

lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the *zamindars* and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue-authorities shall violate or encroach on the rights secured to them by the permanent settlement.

Second.—It is further hereby declared and enacted that all claims by the Revenue-authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, the case of lands expressly excluded from the operation of the settlement, such as *lakhiraj* and *thanadari* lands, shall be and be considered wholly illegal and invalid.

Nor to
warrant claim
to additional
revenue from
lands
permanently
assessed on
plea of error
or fraud.
Exception,

BENGAL REGULATION 8 OF 1819

(THE BENGAL PATNI TALUKS REGULATION, 1819).

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BENGAL REGULATION 8 OF 1819

(THE BENGAL PATNI TALUKS REGULATION, 1819).¹

(3rd September, 1819.)

A Regulation to declare the validity of certain tenures, and to define the relative rights of *zamindars* and *patni talukdars*; also to establish a process for the sale of such *taluks* in satisfaction of the *zamindar's* demand of rent o o o .²

1. By the rules of the perpetual settlement³ proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different *maháls*, were declared to be entitled to make any arrangements for the leasing of their lands in *taluk* or otherwise that they might deem most conducive to their interests.

Preser

By the rules of Regulation 44, 1793,⁴ however, all such arrangements were subjected to two limitations; first, that the *jama* or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale.

The provisions of section 2, Regulation 44, 1793,⁴ by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation 5, 1812,⁵ and in Regulation 18⁶ of the same year, it is more distinctly declared that *zamindars* are at liberty to grant

¹SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 642.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 190.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

ANNOTATED REPRINT.—This Regulation has been reprinted (with notes of cases decided by the High Court and of important rulings of the Bengal Board of Revenue) in the Sale Law Manual, 1906, pp. 65 to 90.

REFERENCES.—As to the application of parts of this Regulation to the recovery of sums payable under the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), see s. 74 of that Act, in Vol. II of this Code.

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales made under Ben. Reg. 8 of 1819—see Act 7 of 1904; s. 8, in General Acts, 1904-09, Ed. 1909, p. 17.

FURTHER ENACTMENTS.—For other enactments dealing with *patni taluks*, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820—*post*, p. 208), the Forfeited Deposits Act, 1850 (25 of 1850—*post*, p. 335), the Rent Recovery Act, 1853 (6 of 1853—*post*, p. 339), and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865—in Vol. II of this Code).

Enactments relating to *patni taluks* are saved by the Bengal Rent Act, 1886 (10 of 1886), s. 166, *post*, p. 420, and by the Bengal Tenancy Act, 1886 (8 of 1886), s. 195 (e), *post*, p. 583.

RULES AND ORDERS.—For rules made by the Bengal Board of Revenue under the Patni Sale Laws, see the Sale Law Manual, 1906, pp. 113, 114.

² Words repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ See the Bengal Permanent Settlement Regulation, 1793 (1 of 1793), *ante*, p. 8.

⁴ Reg. 44 of 1793 was repealed by Act 29 of 1871.

⁵ The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 136.

⁶ The Bengal Leases and Land-revenue Regulation, 1812. It is printed *ante*, p. 181.

(Sec. 1.)

taluks or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore.

In practice, the grant of *taluks* and other leases at a rent fixed in perpetuity had been common with the *zamindars* of Bengal for some time before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations 5¹ and 18² of 1812, or in any other Regulations, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation 44, 1793,³ should, if called in question, be deemed invalid and void as heretofore.

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to *zamindars* under direct engagements with Government, there has been created a tenure which had its origin on the estates of the *Rājā* of Burdwan, but has since been extended to other *zamindaris*; the character of which tenure is that it is a *taluk* created by the *zamindar*, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the *zamindar's* discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the *zamindar*.

By the terms also of the engagements interchanged, it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the *zamindar*, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

These tenures have usually been denominated *patni taluks*, and it has been a common practice of the holders of them to

¹ The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 123.

² The Bengal Lessees and Land-revenue Regulation, 1812. It is printed *ante*, p. 131.

³ Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871.

of 1819.]

(Sec. 1.)

underlet on precisely similar terms to other persons, who on taking such leases went by the name of *darpatni talukdars*: these again sometimes similarly underlet to *sepatnidars*; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the *zamindar's* demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several *zilas* of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature: it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a *patni taluk* as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by *patnidars* and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the *zamindar* or other, for his ruin, as well as to secure the just rights of the *zamindar* on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and

whereas the estates of *zamindars* under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue payable by monthly *kists* to Government, it has seemed just to allow any *zamindar* who may have granted tenure with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year¹, as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted

¹ i.e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

(Secs. 2, 3.)

such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year.¹

The following rules have accordingly been enacted by His Excellency the Most Noble the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including Midnapore.

Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Regulation 44, 1793, was in force.

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged notwithstanding that the same may have been executed before the passing of Regulation 5, 1812,² and while the rule of section 2, Regulation 44, 1793,³ which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question:

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue, * * * unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.

Patni tenures declared valid, transferable and answerable for debt.

3. *First*.—The tenures known by the name of *patni taluks*, as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.

Patnidar's right of under-letting.

Second.—*Patni talukdars* are hereby declared to possess the right of letting out the lands composing their *taluks* in any manner they may deem most conducive to their interest; and any engagements so entered into by such *talukdars* with others

¹ i.e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

² The words "It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 123.

⁴ Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871.

⁵ The words and figures "under the rule of section 5, Regulation 44 of 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

of 1819.]

(Secs. 4, 5.)

shall be legal and binding between the parties to the same, their heirs and assignees:

Provided, however, that no such engagements shall operate to the prejudice of the right of the *zamindar* to hold the superior tenure answerable for any arrear of his rent, in the estate in which he granted it, and free of all incumbrance resulting from the act of his tenant.

Third.—In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same; * * ¹ but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject, however, to the provisions contained in section 17 of this Regulation.

Patni tenure not voidable for arrears.

4. If the holder of a *patni taluk* shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to *patni taluks*, in so far as concerns the grantor of such under-tenure.

Interior tenures under similar title-deeds confer similar interest to that provided for patni taluks in section 8.

The same construction shall also hold in the case of *patni taluks* of the third or fourth degree.

² 5. The right of alienation having been declared to vest in the holder of a *patni taluk*, it shall not be competent to the *zamindar* or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

Zamindar not to refuse to give effect to transfer;

In conformity, however, with established usage, the *zamindar* or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two *per cent.* on the *jama* or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

but may demand fee,

The *zamindar* shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the *jama* or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

and security.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for

¹ The words and figures "under the rule contained in the seventh clause of section 15, Regulation 7, 1799, for leases conveying a limited interest in the land," which were repealed by the Repealing Act, 1874 (18 of 1874), are omitted.

² Section 5 does not apply to transfers of any fractional portion of a *patni taluk*, or to any alienation other than that of the entire interest—see the concluding paragraph of s. 6, *post*, p. 192.

(Secs. 6, 7.)

an arrear in the rent due to the *zamindar* or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

6. It shall be competent to the *zamindar* or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:

Provided, however, that if the security tendered by any purchaser or transferee should not be approved by the *zamindar*, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the *zamindar* to accept it and give effect to the transfer without delay.

It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a *patni taluk*, nor to any alienation other than of the entire interest; for no apportionment of the *zamindar's* reserved rent can be allowed to stand good unless made under his special sanction.

7. In case of the sale of a *patni* tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the *zamindar* or other superior shall be entitled, of his own authority, to send a *sazawal* to attach and hold possession of the tenure until the forms prescribed be observed.

In case also of the sale of a *patni* tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the *zamindar* and the purchaser fail to furnish the same within one month of the date of sale, the *zamindar* shall similarly be entitled to send a *sazawal* to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given.

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but, if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the *zamindar* or other superior making the attachment shall be

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Attachments
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of trust.

of 1819.]

(Sec. 8.)

received as *prima facie* evidence to warrant process for an arrear so accruing.

¹8. *First.*—*Zamindars*, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

Zamindars allowed sales of tenures, in which right to sell for arrears is reserved.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

Second.—On the first day of *Baisakh*,² that is, at the commencement of the following year from that of which the rent is due, the *zamindar* shall present a petition * * * to the Collector,⁴ containing a specification of any balances that may be due to him on account of the expired year, from all or any *talukdars* or other holders of an interest of the nature described in the preceding clause of this section.

First sale to be applied for on first of *Baisakh*.

The same shall then be stuck up in some conspicuous part of the *cutcherry* with a notice that, if the amount claimed be not paid before the first of *Jeth*⁵ following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of *Jeth*⁵ fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the *sadar cutcherry* of the *zamindar* himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the *cutcherry* or at the principal town or village upon the land of the defaulter.

The *zamindar* shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the *mufassal* shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

¹ As to the officer who should conduct sales of tenures of the nature of those described in clause first of section 8 of Ben. Reg. 8 of 1819, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820) s. 2, *post*, p. 203, and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 8, in Vol. II of this Code.

As to the application of ss. 9, 11, 13, 15 and 17 of Ben. Reg. 8 of 1819 to such sales, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 204.

² The month of *Baisakh* corresponds with the last part of April and the first part of May.

³ The words "to the Civil Court of the district, and a similar one," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

⁵ The month of *Jeth* corresponds with the last part of May and the first part of June.

(Sec. 9.)

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of *Baisakh*¹ it shall be sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the *cutcherry* of the nearest *munsif*, or if there should be no *munsif*, to the nearest *thana*, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Mid-year
sale to be
applied for
on first of
Kartik.

Third.—On the first day of *Kartik*,² in the middle of the year, the *zamindar* shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of *Assin*,³ and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of *Aghan*,⁴ unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of *Kartik*,² to less than one-fourth or a four-anna proportion of the total demand of the *zamindar*, according to the *kistbandi*, calculated from the commencement of the year to the last day of *Kartik*.⁵

Sales now
conducted.

^{9.} All sales of saleable tenures applied for under the rules of this Regulation shall be made in public *cutcherry* * * *; the land shall be sold to the highest bidder, and every one, not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen *per cent.* of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours.

If the fifteen *per cent.* be not paid in cash, or in ⁷ [currency notes], within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be re-sold on the same day, and, if the remainder of the purchase-money

¹ The month of *Baisakh* corresponds with the last part of April and the first part of May.

² The month of *Kartik* corresponds with the last part of October and the first part of November.

³ The month of *Assin* corresponds with the last part of September and the first part of October.

⁴ The month of *Aghan* corresponds with the last part of November and the first part of December.

⁵ As to the extension of the application of s. 9, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 204.

⁶ The words "by the Register, or acting Register of the Civil Court, or, in his absence, by the person in charge of the office of Judge or of Magistrate of the district within which the lands may be situated," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁷ The words "currency notes" in s. 9 were substituted for the words "notes of the Bank of Bengal" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 744.

of 1819.]

(Secs. 10, 11.)

be not paid by noon of the eighth day, notice shall be given of re-sale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the *bazar* of the *sadar* station of the *zila*, after which the lot shall be re-sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen *per cent.* already made, * * * and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

10. At the time of the sale the notice previously stuck up in the *cutcherry* shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

Forms to be
observed in
selling.

A person shall attend on the part of the *zamindar*, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the *mufassal*, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate *rubakari* to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the *kistbandi* of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The *zamindar* shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

11. First.—It is hereby declared that any *taluk* or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said *taluk* may have been held.

Tenure to be
sold free of
incumbrance
by act of
defaulter.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible

*The words "(which shall be in such case regarded as part of the proceeds of the sale)," in s. 8, which were repealed by the Forfeited Deposits Act, 1850 (25 of 1850), are omitted: As to the application of forfeited deposits, see s. 2 of that Act, *post*, p. 535.

*As to the extension of the application of s. 11, see the Bengal Patni Taluk Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 204.

(Sec. 12.)

right of the *zamindar* to hold the tenure of his creation answerable, in the state in which he created it for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such *zamindar*.

No under-lease
to stand after
sale.

Second.—In like manner, on sale of a *taluk* for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the *raiyats*; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

Exception in
favour of
bond fide
engagements
with *raiyats*.

Third.—Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a *taluk* or other saleable tenure intermediate between the *zamindar* and actual cultivators to eject a *khudkast raiyat* or resident and hereditary cultivator, nor to cancel *bond fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Above rule
to take
effect retro-
spectively.

12. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the *zamindar's* reserved rent, will equally apply to the case of *taluks*, heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognised and in use in the district at the time of selling.

Proviso.

Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a *taluk* and the lessees of his predecessor.

Rule not to
apply to
private
transfers.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a *talukdar* of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the *talukdar* in favour of the *zamindar*, nor to any act originating with the former holder, other than default as aforesaid: all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

of 1819.]

(Sec. 13.)

¹ 13. *First*.—With reference to the injury that may be brought upon the holder of a *taluk* of the second degree by the operation of the preceding rules, in case the proprietor or the superior tenure purposely withholds the rent due from himself to the *zamindar* after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such *talukdars* the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

Reason for allowing under-tenants means of staying sale.

Second.—Whenever the tenure of a *talukdar* of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the *zamindar*, the *talukdars* of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the *zamindar* on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficient, the sale shall not proceed, but, after making good to the *zamindar* the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

How under-tenants may stay sale.

Third.—If the amount so lodged shall be rent due by the inferior *talukdar* to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

Procedure in case of amount lodged being rent due from under-tenant;

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the *taluk* so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

and in case of amount lodged being advance from private funds.

¹ As to the extension of the application of s. 13, see—the Bengal Patni Taluks Regulation 1820 (1 of 1820), s. 2 (3), *post*, p. 204, and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), in Vol. II of this Code.

(Secs. 14, 15.)

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve *per cent. per annum* up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.

Sale not to be stayed unless arrear claimed be lodged.

14. First.—Should the balance claimed by a *zamindar* on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

But suit to lie for its reversal.

It shall, however, be competent to any party desirous of contesting the right of the *zamindar* to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the *zamindar* for the reversal of the same, and, upon establishing a sufficient plea, to obtain a decree with full costs and damages.

The purchaser shall be made a party in such suits, and, upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the *zamindar* or person at whose suit the sale may have been made.

Defaulter may apply for summary investigation.

Second.—In cases also in which a *talukdār* may contest the *zamindar's* demand of any arrear, as specified in the notice advertised, such *talukdār* shall be competent to apply for a summary investigation at any time within the period of notice; the *zamindar* shall then be called upon to furnish his *kabuliya*t and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Sale not to be stayed unless amount claimed be deposited.

Such award, if so made, will of course regulate the ulterior process; but, if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and, if the *zamindar* or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in [currency notes], by the *talukdār* contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale.

Delivery of possession to purchaser.

15. First.—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at

¹ The words "currency notes" in s. 14 (2) were substituted for the words "notes of the Bank of Bengal" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 744.

² As to the extension of the application of s. 15, see the Bengal Patni Taluks Regulation, 1820 (F of 1820), s. 2 (3), *post*, p. 204.

of 1819.]

(Sec. 15.)

any sale made under this Regulation. such purchaser shall receive from the officers conducting the sale a certificate of such payment.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the *cutcherry* of the *zamindar*, and upon furnishing security, if required, to the extent of half the *jama* or annual rent, he shall receive the usual "*amaldustark*" or order for possession, together with the notice to the *raiyats* and others to attend and pay their rents henceforward to him.

The *zamindar* shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his *cutcherry*; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court,¹ and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the *nazir*, in the same manner as possession is obtained under a decree of Court:

Provided, however, that, if the delay be on account of the *zamindar's* contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Secoul.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court¹ for the aid of the public officers in obtaining possession of his just rights.

Procedure
in case of
opposition to
purchaser.

A proclamation shall then issue under the seal of the Court and signature of the Judge¹ declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the *zamindar*, acquired the entire rights and privileges attaching to the tenure of the late *talukdar*, in the state in which it was originally derived by him from the *zamindar*, he alone will be recognized as entitled to make the *zamindari* collections in the *mufassal*, and no payments made to any other individual will on any account be credited to the *raiyats* or others in any
* * * suit for rent * * * or on any other occasion whatever when the same may be pleaded.

¹ As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

² The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

³ The words and figures "brought under the provisions of section 15, Regulation 7, 1793, or in any application to stay process by distraint, under the rules of Regulation 5, 1812," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 16, 17.)

Procedure in
case of
continued
opposition.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

16. (*Sale of under-tenures for arrears.*) *Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).*

Disposal of
proceeds of
sales.

17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Deduction
on account
of
Government.

Second.—One *per cent.* shall first be deducted from the net proceeds, realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Payment to
zamindars.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the *taluk* to sale) to the *zamindar* or other person to whom the same may be due:

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the *zamindar* shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual *talukdar*, and must be recovered in the same way as other debts by a regular suit in the Court.

Disposal of
remainder.

Fourth.—Any excess that may remain after satisfying the demand of the *zamindar*, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector¹ or Assistant Collector of the district, to be there held in deposit to answer the claims of the *talukdars* of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the *taluk* sold, or on any part of it.

Under-
tenants free
to prosecute
for price of
land
sold or
compensation.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation

¹ As to the extension of the application of s. 17, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 204.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *post*, p. 248.

of 1819.]

(Sec. 17.)

for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no *talukdār* of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior *taluk*, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

Suit not to lie if under-tenant be himself in arrear at time of sale.

Seventh.—Should no claims upon the purchase-money of a *taluk* sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and, upon exhibiting such certificate to the Collector¹ the amount set free thereby shall be to his receipt.

When defaulter to receive excess unclaimed.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector¹.

Eighth.—It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof on substituting Government securities, bearing interest, in lieu of the

Substitution of Government securities for cash in deposit.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), s. 35, post, p. 248.

(Secs. 18, 19.)

money so held in deposit; such securities to be taken at the rate of discount or premium of the day * * *.¹

18, 19. (*Rules regarding attachment of land of defaulter; summary process against person of defaulter.*) Rep. by the Bengal Rent Act, 1859 (Act 10 of 1859).

¹ The words "as shown by the Government Gazette last received," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 1 OF 1820

(THE BENGAL PATNI TALUKS REGULATION, 1820).¹

(11th January, 1820.)

A Regulation for providing that all sales of certain taluks made answerable by sale for arrears of the zamindar's rent shall be conducted in the mode prescribed by Regulation 8, 1819,² for the sales therein described.

1. Whereas it has been omitted to provide in the rules of Regulation 8, 1819², whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause *first*, section 8, of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described;

Preamble.

And whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the *zamindar's* rent, the sale should be public, for the security of the interests of the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation;

the following additional rule has accordingly been passed by the Governor General in Council, to take effect, from the date of its promulgation, within the several districts of Bengal, including Midnapore:—

2. *First*.—Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause *first*, section 8, Regulation 8, 1819², to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorised by³ [law] have acquired the right of causing such sale to be made,

Rules of Reg. 8, 1819, for periodical sales for *zamindar's* arrears of rent, extended to other sales for rent.

¹SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 643.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

OTHER ENACTMENTS.—For a list of other enactments dealing with *patni taluks*, see foot-note to the Bengal Patni Taluks Regulation, 1819 (8 of 1819), *ante*, p. 137.

² The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 137.

³ The word "law" in s. 2 (1) was substituted for the words "the general Regulations" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 744.

(Sec. 2.)

the same shall be conducted, after application from the *zamin-dar*, by the Register or acting Register of the *Zila* * * ¹ Court, or, in his absence, by the person in charge of the office of Judge of the district ² in the mode prescribed by Regulation 8³ above quoted for periodical sales.

Notice by
proclamation.

Second.—Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the *cutcherry* of the Court and at that of the Collector of the district.

Rules extend-
ed to sales
hereunder.

Third.—The rules of sections 9, 11, 13, 15 and 17, Regulation 8, 1819,³ are extended to all sales made after the manner herein provided.

¹ The words "or City," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² As to the substitution of "the Collector of Land-revenue" for "the Judge," see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

³ The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 187.

BENGAL REGULATION 4 OF 1821

[THE BENGAL LAND-REVENUE (ASSISTANT COLLECTORS)
REGULATION, 1821].¹

A Regulation for explaining the duties of an Assistant Collector of revenue and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of *parganas* or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.

1. Whereas it is expedient to explain the duties which may be performed by the Assistants to the Collectors of revenue, and to define the duties and powers vested in Assistant Collectors or other officers when appointed to the charge of the revenues of *parganas* or other local divisions, or when employed in the performance of any portion of the functions ordinarily belonging to Collectors of the land-revenue; Preamble.

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William ⁴.

2, 3. (*Power to confer magisterial powers on Collectors, and vice versa; oath to be taken by such Collectors and Magistrates.*) Rep. by the Repealing Act, 1873 (12 of 1873).

4 to 6. (*Magistrates and Collectors, in the exercise of such powers, to be guided by Regulations, etc., in force; Magistrates employed in the collection of revenue to preserve records; rules declaring Collector amenable to Zila and City Courts to be applicable to such Magistrates.*) Rep. by the Repealing Act, 1876 (12 of 1876).

7. In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by

Institution of suit in Zila Court for recovery of public revenue.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) Sch. I.—see *post*, p. 727.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding clause of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri in the Jalpaiguri District—see Vol. IV, Part IV, j. and, the Western Hills, the Tarai and the Damson Sub-division, in the Darjeeling District—see *ib.*

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

² Portion of the title which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

³ Portion of section 1 which was repealed by the Repealing Act, 1876 (12 of 1876), is omitted. This includes the present Presidency of Fort William in Bengal and other territory.

(Sec. 8.)

the Collector¹ in the 'Zila * * ' Courts is authorized or directed² [by law], a Magistrate or Joint Magistrate or Assistant to a Magistrate, employed in the collection of the revenue, not being himself in charge of the office of Judge of a Zila * * ' Court, shall proceed according to³ [the law for the time being in force] for the guidance of the Collectors¹ under similar circumstances.

Power to alter limits of collector-ships, and number of officers employed as Collectors.

8. *First*.—It is hereby declared and enacted that it is and shall be lawful for the⁴ [Local Government] to cause such alterations to be made in the limits of the several Collector-ships, and in the number of the officers employed as Collectors of land-revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants * * * with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land-revenue in such *mahál* or *maháls* belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same conditions and liabilities, as attached to Collectors of land-revenue in regard to such duties.

Power to depute subordinate officer to perform Collector's duties.

Second.—It shall also be competent to the Board of Revenue or other authority exercising the powers of the Board⁷ to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land-revenue within such local limits as they may judge expedient:

Provided, however, that in all such cases the Board or other authority aforesaid⁷ shall, on the day in which they may depute any officer as aforesaid or as soon after as practicable, report their having done so for the information and orders of the⁶ [Local Government].

Power of Collectors to delegate part of their duties to their assistants.

Third.—The Collectors¹ of revenue are hereby authorized, with the sanction of the Board of Revenue,⁷ * * * to delegate to their Assistants any part of their prescribed duties, which, from the extent of their general business or other cause, they may be unable to give due attention to themselves:

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *post*, p. 248.

² The words "or City" in s. 7, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words "by law", in s. 7, were substituted for the words "by the Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 744.

⁴ These words in square brackets in s. 7 were substituted for the words "the Regulations already in force" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 744.

⁵ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 744.

⁶ The words "of the Honourable Company," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁷ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (7), *post*, p. 210.

⁸ The words "or the Boards of Commissioners" in s. 8, clause *Third*, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

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Provided always that in the event of a Collector¹ deputing his Assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue² * * *³ to which he may be subordinate.

Fourth.—(Oath to be taken by Assistant Collector.) Rep. by the Repealing Act, 1873 (12 of 1873).

*Fifth.—*Assistants or other officers¹ exercising the power of Collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect '[by the laws] which have been or may be enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them, and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity, in opposition² [to law], in the same manner, and under the same rules, as the Collectors of revenue.

Assistants,
etc., to be
guided by
Regulations,
responsible
for perform-
ance of
duties, and
amenable
to Civil
Courts.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *post*, p. 210.

³ The words "or the Boards of Commissioners," in s. 8, clause *Third*, which were repealed by the Repealing Act, 1871 (16 of 1871), are omitted.

⁴ The words "by the laws" were substituted for the words "by the Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 744.

⁵ The words "to law" were substituted for the words "to the Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 744.

BENGAL REGULATION 5 OF 1822

(THE BENGAL BOARD OF REVENUE REGULATION, 1822).¹

(19th March, 1822.)

A Regulation for modifying the constitution [of the Board of Revenue, and for controlling the distribution of powers between the members of the Board].

1. [Whereas the superintendence of the Delhi territory has recently been vested in the Board of Commissioners for the Ceded and Conquered Provinces, and for this and other causes it has become necessary to relieve the said Board from the charge of a portion of the districts now under their control];

Preamble.

and whereas it is also desirable to modify the constitution and alter the jurisdiction of the several Boards³ intrusted with the management of the land-revenue.

the following rules have been enacted, to be in force from the date of their promulgation:—

2, 3. (Repeals; three Boards of Revenue established, for the Lower, Central and Western Provinces, respectively.) Rep. by the Repealing Act, 1874 (16 of 1874).

4. First.—[The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall]

Power to appoint members.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 727.

LOCAL EXTENT.—This Regulation has been declared, by the Laws Local Extent 1874, Act (16 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV; and the Western Hills, the Tarai and the Dumson Sub-division, in the Darjeeling District—see *ibid.*

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), post, p. 790.

CONSTITUTION, POWERS AND NAME OF BOARD OF REVENUE.—The present Board of Revenue is a Sadar or Head Board—see the Bengal Revenue Commissioners Regulation 1829 (1 of 1829), s. 4 (1), post, p. 309.

All powers and duties of the Board of Revenue in the Customs, Salt and Opium Department, and its officers, were transferred to the Sadar Board by the Bengal Board of Revenue Act, 1850 (44 of 1850), s. 2, post, p. 337.

The name of the Sadar Board is "the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal"—see the Bengal Board of Revenue Act, 1850 (44 of 1850), s. 3, post, p. 337.

³ These words in square brackets in the title of this Regulation were substituted for the original words by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 745.

³ Ben. Reg. 3 of 1882 having been repealed as to the United Provinces, this Regulation now relates only to the Board of Revenue for Bengal.

⁴ These words in square brackets in s. 4 were substituted for the words "The said Boards shall each of them" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 745.

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consist of such number of members as the Governor-General in Council may from time to time appointed.¹

Second, Third. (Sittings of Boards to be daily; forms of proceedings; sadar station). Rep. by the Repealing Act, 1874 (16 of 1874).

Power to
authorize
single
member to
exercise duties
of Board,

5. First.—It shall be competent to ²[the Lieutenant-Governor³] to authorize a single member of ⁴[the said Board] to exercise, either generally or locally, all the duties, powers and authority which are vested in the Board collectively, whenever circumstances may render such an arrangement desirable.

and several
members
separately to
exercise part
of duties.

It shall further be competent to ⁵[the Lieutenant-Governor³] to authorize the several members of the said Board separately to exercise at the same time, and within the same limits, such part of the said duties, powers and authority as it may from time to time be judged proper to assign to each respectively, whenever, for the greater dispatch of business or other cause, it may appear advisable to divide the business of the Board, or to assign any special duty to any member separately:

Provided, however, that if a member exercising singly, as above, the duties, powers and authority of the Board, or any part thereof, shall in any case be of opinion that any decision or order of a ⁶[Commissioner or] Collector⁷ ought to be reversed or altered, he shall not pass any final order on the case without the concurrence of one or more of the other members, unless

¹ As to where the Board is to be stationed and where members are to reside, see the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 1 (1), (2), *post*, p. 309.

The Board of Revenue is the Court of Wards—see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), s. 5, in Vol. II of this Code.

As to the control of the Government over the Board, see the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 4 (2), *post*, p. 309.

As to the exercise of functions of the Board by other authorities, see—

(1) the present Regulation, s. 5, clauses *First* and *Third*, pp. 210 and 211 (a single member of the Board) s. 5, clause *Seventh*, *post*, p. 212 (temporary or provisional members of the Board),

(2) the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post* p. 248. (Boards, Committees and Commissions specially vested with powers and authority of the Board of Revenue), and

(3) the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 4, clause *First*, *post*, p. 309 (Commissioners of Divisions).

and see also—

(4) the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 7, *post*, p. 790, which vests the general administration of the Chittagong Hill-tracts, in revenue and other matters, in the Superintendent of those Tracts.

As to the control of Commissioners by the Board, see the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 4 (1), *post*, p. 309.

² These words in square brackets, in s. 5, were substituted for the words "the Governor-General in Council, by an order in Council" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 386.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

⁴ These words in square brackets in s. 5 were substituted for the words "any of the said Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 745.

⁵ These words in square brackets were substituted for the words "the Governor General in Council similarly" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 386.

⁶ The words "Commissioner or" were inserted by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 337.

⁷ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

THE BENGAL BOARD OF REVENUE REGULATION, 1822. 211
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otherwise specially directed and authorized by,¹ [the Lieutenant-Governor²].

Provided further that it shall not be competent to a single member of³ [the Board] to reverse or alter a decree or order passed by any other member:

Provided also that no settlement of the land-revenue, whether in perpetuity or for a term of years, shall be, or be held, final and binding upon Government, unless the same shall have been⁴ [made or confirmed in accordance with rules sanctioned] by the Governor General in Council.

Second.—Whenever two members of⁵ [the Board] shall jointly or separately have considered any question, if a difference of opinion shall arise between them, the decision of the question shall be postponed, and the case shall be referred to a third member, permanent or provisional, in such mode as may from time to time be directed by⁶ [the Lieutenant-Governor²] and shall be determined according to the majority of voices.

Procedure where difference of opinion arises.

Third.—In regard to the appointment, removal or punishment of the Native officers of Collectors of land-revenue or other functionaries subordinate to the⁷ [Board], a single member vested as above with authority separately to exercise the powers of the Board or any part thereof shall, within the limits of his authority, be competent to proceed in the same manner as the Board collectively are authorized to proceed:

Appointment, removal or punishment of Collector's Native officers by single member.

Provided that, in any such case, if a member of the Board acting singly shall differ in opinion from a Collector⁸ or other functionary immediately subordinate to them, he shall not, unless otherwise specially authorized by⁹ [the Lieutenant-Governor²], pass any final order without the concurrence of one or more members of the Board.

Proviso.

Fourth.—No final orders regarding the appointment, removal or punishment of officers belonging or immediately subordinate to the Board shall (unless otherwise specially directed by¹⁰ [the Lieutenant-Governor²]) be issued without the concurrent judgment of two or more members.

Two members necessary to appoint, remove or punish officers of Board.

¹ The words "the Lieutenant-Governor" were substituted for the word "Government" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 886.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

³ The words "the Board" in s. 5, clauses *First* and *Second*, were substituted for the words "a Board" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 745.

⁴ The words "made or confirmed in accordance with rules sanctioned" were substituted for the words "formally confirmed" by the Amending Act, 1891 (12 of 1891) Sch. II—see General Acts, 1887-97, Ed. 1909, p. 887.

⁵ The word "Board" in s. 5, clause *Third*, was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 745.

⁶ As to the exercise of functions Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 86, *post*, p. 248.

⁷ The words "the Lieutenant-Governor," in the proviso to clause *Third* of section 5, were substituted for the word "Government" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 886.

⁸ The words "the Lieutenant-Governor," in clause *Fourth* of section 5, were substituted for the words "the Governor General in Council" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 886.

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Single mem-
ber may sus-
pend any
officer.

Fifth.—Single members exercising separate authority as above shall be competent to suspend any officer under their authority, in like manner as the Board collectively may do; but all orders regarding the suspension of any such officer passed by a single member, unless in confirmation of an order or recommendation of a Collector¹ or other intermediate authority, or unless specially authorized by ²[the Lieutenant-Governor³], shall be reported without loss of time to some other member, and shall be liable to be set aside by the decision of a majority of the Board.

Board may
review, etc.,
their deci-
sions

Sixth.—The ⁴[Board] are authorized to review, rescind, alter or confirm any order and decision passed by them collectively, or by any member exercising, as above, separate authority, if an application to that effect be made to them by any party interested in the case, within the period of three months from the date on which the order or decision may have been passed, or good and sufficient cause shown for a further delay, and if, from the documents exhibited, the case shall appear to merit further investigation.

But no order or decision passed by a single member exercising separate authority shall be reversed, altered or stayed excepting on the concurrent judgment of two or more members.

Procedure
where
members
equally
divided in
opinion.

Seventh.—To provide for cases wherein the members of the Board shall not agree in opinion as to the decision or order to be passed in any case, and wherein the voices on each side may be equal, it shall be competent to the Governor General in Council to appoint one or more temporary or provisional members, who shall, in regard to the investigation and determination of the questions so in dispute, have and exercise the same powers and authority as if they ordinarily belonged to the Board:

and, if a difference of opinion as aforesaid shall arise between two members of the Board holding joint sittings at any place where a temporary or provisional member may be stationed, the other permanent member or members of the Board being absent, it shall and may be lawful for them, without reference to such absent member, to submit the question in dispute to the provisional member, and to issue orders in conformity with the opinion which he may support.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 248.

² The words "the Lieutenant-Governor" in clause *Fifth* in section 5, were substituted for the words "the Governor General in Council" by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1889, p. 836.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa, and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

⁴ The word "Board" in s. 5, clause *Sixth*, was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 745.

BENGAL REGULATION 7 OF 1822

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822).

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BENGAL REGULATION 7 OF 1822

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822.¹)

(8th August, 1822.)

A Regulation for declaring the principles according to which the settlement of the land-revenue in [Outlook,] Pataspur and its dependences is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.

1. Whereas the existing settlement of the land-revenue in the Ceded Provinces will expire with the present Fashi year⁴,

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 728.

LOCAL EXTENT.—This Regulation, as originally passed, did not extend to any part of the Presidency of Fort William in Bengal, as now constituted, except the *pargana* of Pataspur and its dependencies—see the concluding paragraph of s. 1, *post*, p. 219. But it has since been applied—

(1) to settlements made under the Bengal Alluvial Land Settlement Act, 1858 (31 of 1858)—see s. 2 of that Act, *post*, p. 379, and

(2) to estates in any part of which a measurement, survey or local inquiry is made under the Bengal Land-revenue Sales Act, 1859 (11 of 1859), and to estates purchased or taken on account of the Government under that Act—see s. 60 of that Act, *post*, p. 446.

Section 2 (6) and ss. 3 to 35 of the Regulation have also been extended, by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 2, *post*, p. 270, to—

(1) all lands not included within the limits of estates for which a permanent settlement had been concluded in the manner prescribed by the Bengal Decennial Settlement Regulation, 1793 (8 of 1793—*ante*, p. 31.);

(2) all estates held *khas*;

(3) the Sundarbans; and

(4) certain forests and wastes, and all estates bordering thereon.

It is further declared by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 3 (*post*, p. 270), that Collectors or other officers may be invested with the powers specified in s. 20 of the present Regulation, and that ss. 21 to 35 of the present Regulation shall apply to areas in which this has been done.

The powers conferred by Bengal Regulation 7 of 1822 and amending enactments on a Collector making a settlement of land-revenue are exercisable also by Commissions appointed under the Village Chaakidari Act, 1870 (Ben. Act 6 of 1870), inquiring into the question what lands were, before the passing of that Act, assigned for the maintenance of an officer appointed to keep watch and report crime to the police—see Bengal Act 6 of 1870, s. 60, in Vol. II of this Code.

The application of Ben. Reg. 7 of 1822 is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

PARTIAL REPEAL.—The following portions of Ben. Reg. 7 of 1822 were repealed by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), ss. 2 and 3 (noted *post*, p. 317, namely:—

(1) “so much as prescribes, or has been understood to prescribe, that the amount of *jama* to be demanded from any *mahal* shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce,” and

(2) “so much as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand.”

SAVING.—Nothing in the Bengal Decennial Settlement Regulation, 1798 (8 of 1798), s. 51 (*ante*, p. 37), or in the Bengal Rent Act, 1859 (10 of 1859), ss. 13, 14 and 17, *post*, pp. 389 and 390), is to affect settlement proceedings under the present Regulation—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

APPLICATION OF BEN. ACT 8 OF 1879.—The Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), applies to certain settlement proceedings under the present Regulation—see Ben. Act 8 of 1879, s. 14, in Vol. II of this Code.

DURATION OF SETTLEMENTS.—As to the period during which Collectors, etc., are to be considered to be engaged in making and revising settlements under this Regulation, see the Bengal Land-revenue Settlement Regulation, 1828 (4 of 1828), *post*, p. 306.

² The words “the Ceded and Conquered Provinces, including,” which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ The words “for continuing, with certain exceptions, the existing leases within the said provinces for a further term of five years,” which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ i.e., the 1st September, 1822.

(Sec. 1).

*and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted*¹;

And whereas a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed not to any general and extensive enhancement of the *jama* but to the objects equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of, any village or *mahal*:

And whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with *zaminidars* or other persons acknowledged as proprietors or possessors of a permanent interest in the *mahals* for which they may have engaged, until a new settlement can be made, combining, which the revision of the Government *jama* and the deliberate investigation of the facts by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of, the rights and interests of all classes connected with the land:

And whereas the same principles are applicable to [*the district of Cuttack,*] the *pargana* of Pataspur and its dependencies, of which the settlement will expire with the present "*Amlī*" year²:

And whereas it has appeared expedient to make special provision for the early settlement of * * * the *pargana* of Pataspur and its dependencies:

And whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in

¹The portion printed in italics is ~~obsolete~~, Bengal Regulation 7 of 1822 having been repealed in the North-Western Provinces by the N.-W. P. Land-revenue Act, 1873 (19 of 1873).

²i.e., the 2nd September, 1822.

³The words "the district of Gorakhpur, the *chakla* of Azamgarh," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴Portion relating to "the Conquered Provinces" and "the Province of Bundelkhand," which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

of 1822.]

(Sec. 2.)

conducting inquiries of the above nature should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete:

And whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them:

And whereas it further appears advisable that the revenue-officers should in certain cases be vested with authority judicially to receive, hear, investigate and determine suits, claims and demands of the above description:

And whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the *sadar malguzars* or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as *jagirdars* and other owners or managers of *lakhiraj* lands; and it is particularly necessary, in the case of estates held in *pattidari* or *bhaiya chāra* tenure, to make further provision for protecting the sharers who have not been admitted to engagement with Government against the encroachments of the *sadar malguzar*, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged;

For the purposes and objects above specified the following rules have been enacted, to be in force * * *¹ in [the district of Cuttack,] the *pargana* of Pataspur and its dependencies.

2. *First to Fifth.* (Extension of existing settlements in Ceded Provinces and Cuttack; proclamation of proposed extension; Gorakhpur and Azamgarh excluded; existing leases in Pataspur to continue from year to year.) Rep. by the Repealing Act, 1874 (18 of 1874).

Sixth. * * * * *² if any *zamindar* or other *malguzar* ³[acknowledged as the proprietor or possessor of a permanent interest in the *mahal* for which he has engaged], who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any *mahal*, shall be allowed by the Revenue-authorities to continue in the management of such *mahal* after the expiration

General
relative
zamind
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of the
leases.

¹ The words "from the date of their promulgation, throughout the Ceded and Conquered Provinces," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

² Formal words which were repealed by the Repealing Act, 1874 (18 of 1874), are omitted.

³ These words in square brackets in section 2 (6) were substituted for the words "as aforesaid" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see post, p. 748.

(Sec. 3.)

of such engagement, and shall do or direct any act relative to the cultivation or management of such *mahal*, or the settlement, assessment or collection of the rents of such *mahal*, in or on account of any year subsequent to the term of such engagement, such *zamindar* or other *malguzar* aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon :

Provided further that it shall be competent for Collectors or other officers exercising the power of Collector,¹ with the sanction of the Board² or Commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the *zamindars* or other *malguzars* as aforesaid to declare whether or not they are willing to continue their engagements for the ensuing year ; and, if such *zamindars* or other *malguzars* shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid.

Zamindars or other *malguzars* who may be allowed to hold on from year to year shall not be chargeable with any additional revenue on account of any year, unless the Collector or other officer exercising the powers of Collector¹ shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.

3. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the ³[Local Government] may direct.

A preference shall be given to the *zamindars* or other persons possessing a permanent property in the *mahals*, if willing to engage for the payment of the public revenue on reasonable terms :

Provided also that, in cases wherein such *mahals* may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years.

The above rules shall likewise be applicable to estates now held *khas*.

So in any case wherein the *zamindars* and other proprietors may refuse to continue their existing engagements, or to enter into new engagements, on equitable terms, it shall be competent to the Revenue-authorities to let the lands in farm for such period, not exceeding

¹ As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908) Sch. II and in 7A5.

of 1822.]

(Sec. 4.)

twelve years, as the ¹[Local Government] shall appoint, or to assume the direct management of them, and to retain them under *khas* management during the period aforesaid or such shorter period as may be judged proper:

Provided further that, if in any case it shall appear to the Revenue-authorities that the continuance or admission of any *Raia*, *zamindar*, *talukdar* or other person who may have engaged, or may claim to engage, for any *mahal* or *mahals*, in or to the management of such *mahal* or *mahals*, would endanger the public tranquillity or otherwise be seriously detrimental, it shall be their duty to report the circumstances to Government, and it shall be competent to the ¹[Local Government,] ²[by notification in the local official Gazette], to cause such *mahal* or *mahals* to be held *khas* or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.

4. In admitting particular parties to engage it was in no degree the intention of Government to compromise private rights or privileges, or to vest the *sadar malguzars* with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the *sadar malguzar*, by special Regulation, with authority of distraint, or other powers of coercion over the under-tenants.

Admission of particular persons to engage for payment of revenue, not to bar Revenue-officers from interfering to adjust rights of other persons or classes.

On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess.

In pursuance of this principle, it is hereby declared and enacted that nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the Revenue-officers, duly empowered in that behalf, from interfering to adjust the respective rights of the *sadar malguzars* and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf; but, if such decision or order shall operate materially to reduce the profits derived by any *zamindar* or *malguzar* from the *mahal* owned or managed by him, it shall be competent for such *zamindar* or *malguzar* to

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 745.

² The words "by an Order in Council," in the original text, are to be read as if the words "by notification in the local official Gazette" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 745.

(Sec. 5.)

relinquish his engagements, and the Revenue-officers shall in such case proceed to make a settlement of the *mahal de novo*.

5. (*First.*—*Repeal of provisions relative to malikana and nankar.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Malikana to be allowed to proprietors of estates farmed or held khas.

¹*Second.*—The proprietors of estates let in farm or held *khas* shall be entitled to receive an allowance of *malikana*, at such rate as the Board² * * * or other authority exercising the powers of that Board² may determine, anything in the existing Regulations notwithstanding; the said *malikana* to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively:

Provided also that the *malikana* allowance granted to the proprietor or proprietors of any *mahal* shall not in any case be less than five *per cent.* on the net amount realized by Government from the lands: nor shall it exceed ten *per cent.* on that amount without the special sanction of the ⁴[Local Government]:

Provided further that, if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the *nankar* formerly granted to them by the Native Governments or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the *malikana* to which they are by this section declared to be entitled:

Provided also that this rule shall not apply to such *zamindars* as may continue in the occupancy of their tenures whilst the *mahal* in which they are included is held *khas* or farmed, or of any part of them, that is to say, *zamindars* who may cultivate or lease their lands and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any *malguzar*, *zamindar* or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the *raiyyats* of the lands farmed or held *khas*:

Provided also that *malguzars*, not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as *zamindars*, *talukdars* or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the *jama* of the estate, but

¹ For an explanation of the rules in s. 5 as to *malikana*, see the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 11, *post*, p. 318.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor, see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 746.

of 1822.]

(Sec. 6.)

shall receive such allowance in lieu of their title of management as it may appear to Government to be equitable to assign, in addition to the *malikana* to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy; and no *malikana* shall be granted to any *sadar malguzar* on account of lands the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a Court of Justice, or to the satisfaction of the Board.¹ But in such cases such provision will be made for the intermediate support of the party as the ²[Local Government] may, on the recommendation of the Board, see fit to direct.

Third.—Provided also that, if any *zamindar* or *sadar malguzar* shall have been called upon by a Collector or other officer exercising the powers of a Collector³ to state the highest amount of *jama* for the payment of which he may be willing to engage, and shall have stated the same accordingly, the sum so stated by such *zamindar* or *sadar malguzar*, and not the *jama* ultimately realized by Government, shall form the basis on which his *malikana* allowance shall be adjusted; and in such case it shall and may be lawful for the Revenue-authorities to limit the said allowance to five *per cent.* on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said *zamindar* or *sadar malguzar*:
Zamindars may be called upon to state jama for which they are willing to engage.

Provided also that, if a *zamindar* or *sadar malguzar*, when so called upon, shall fail to specify or tender any sum as aforesaid, then and in that case the net revenue derived by Government from the *mahal*, on account of the year preceding that in which the Collector or other officer aforesaid⁴ may make the said requisition, shall be taken as the sum by which the amount of *malikana* (not being less than five, nor more than ten, *per cent.* on the same) shall be adjusted.

6. First.—In cases wherein the existing engagements may be continued under the rule contained in section 2 of this Regulation, it shall and may be lawful for the Collectors,⁵ with the sanction of the Board¹, * * * to enter at any time in the course thereof on a revision of the settlement notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands, and the amount of *jama* properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the
Revenue-officers may revise settlement of estates of which existing leases shall be extended under section 2, during continuance of such extended lease.

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

² The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (24 of 1908), Sch. II, *post*, p. 745.

³ As to the exercise of functions of Collectors by other officers, see s. 85, *post*, p. 248.

⁴ The words "of Commissioners," in s. 6 (1), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Sec. 7.)

rights, interests, privileges and properties of the agricultural community, and to determine the same, with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to re-assessment.

Revision of
settlement
how made.

Second.—The said revision of the settlement shall be made village by village and *mahal* by *mahal*; and such number of *mahals* shall be revised in each year, as the Board,¹ under the orders of the ²[Local Government], may direct.

Revision of
settlement
not to operate
to alter *jama*
payable on
account of
lands
included in
existing
engagements.

Third.—Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of section 2 of this Regulation in so far as such engagements relate to the amount of *jama* demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and, if on the revision of the settlement of any *mahal* it shall be found that there has been any material error or concealment of lands belonging to such *mahal*, the Collector³ shall be authorized, subject to the orders of the Board,¹ separately to assess the lands so withheld from the knowledge of the Revenue-authorities, in the same manner and with the same powers as he would assess an unsettled *mahal*.

Provided also that nothing in this or the preceding sections shall be construed to prevent the Revenue-officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes of persons connected with any *mahal*, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce when adjusting the assessment of an unsettled *mahal*.

Fourth.—(*Revision of settlement in Conquered Provinces and Bundelkhand.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

Leases to be
granted on
revision of
settlement.

7. First.—When a Collector⁴ * * * [in the Province of *Cuttack*] shall have completed the revision of the settlement of any *mahals* under the rules contained in the preceding section, it shall and may be lawful for him, subject to the orders of the Board¹ * * * and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

² The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 745.

³ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

⁴ The words "in the Ceded Provinces or," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁵ The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

of 1822.]

(Sec. 7.)

leases for such further term of years subsequent to the year 1234¹ *Fasli* or *Amli* as the ' [Local Government] may direct.

Second.—The assessment to be demanded on account of the years subsequent to the year 1234 *Fasli*¹ to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision of the settlement shall be made² unless under special circumstances justifying a prospective enhancement of the Government demand:

Jama for years subsequent to 1284, how adjusted.

Provided also that the amount of such assessment shall not be raised above that of the present *jama*, unless it shall clearly appear that the net profits to be derived from the land by the *zamindars* and others who may be entitled to share in the profits arising out of the limitation of the Government demand will exceed one-fifth of that amount; and, in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the *zamindars* and others aforesaid a net profit of twenty *per cent.* on the amount of the *jama* payable by or through them respectively: no abatement on the existing *jama* will be allowed unless on the clearest grounds of necessity.

Third.—The *pattas* granted on such revised settlements shall be held only to secure the *malguzars* from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement *rubakari* of the Collector⁴ with such allowance for error as may be distinctly declared at the time of settlement.

Pattas granted on revised settlement to cover only lands specified.

Zamindars and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the *raqba* of the *mahals* for which they may engage.

Fourth.—(*Grant of renewed leases in Conquered Provinces and Bundelkhand.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Fifth.—If any *zamindar* or other *sadar malguzar*, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue-authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any *mahals* until the expiration of the current leases, it shall be

Power to postpone final settlement until expiration of current leases.

¹ i.e., A.D. 1826.

² The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post p. 745.

³ As to the partial repeal of this provision by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1893 (9 of 1893), s. 2, see foot-note on p. 217, ante.

⁴ As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 248.

(Secs. 8, 9.)

competent to them to do so; and in such case the several rules contained in section 3 of this Regulation, relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such *mahals*.

Rules applied
to estates in
Gorakhpur,
etc.

Sixth.—The same rules shall also be applicable to the several *mahals* within * * *¹ the *pargana* Pataspur and its dependencies, as they may respectively become, or be declared, open for re-settlement.

Letting of
excess
waste-lands.

8. Where the waste-land belonging to or adjoining any *mahal* is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the Revenue-officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity, or for such periods as the ²[Local Government] shall determine; and to assign to the *zamindars* or others who may establish a right of property in the lands so granted an allowance equivalent to ten *per cent.* on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste-lands, so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.

Allowance to
zamindars.

Investigations
by Collectors
making or
revising
settlements.

9. First.—It shall be the duty of Collectors³ and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of the land-revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community.

For this purpose their proceedings shall embrace the formation of as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees.

This record shall, in *pattidari* or *bhaiya chāra* villages or the like, include an accurate register of all the co-parceners, not merely the heads of divisions, such as the *pattis*, *thoks* or *behris*, but also as far as possible of every person who occupies

¹ The words "the district of Gorakhpur, the *chakla* Azamgarh," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

² The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 746.

³ As to the partial repeal of s. 9 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1888 (9 of 1888), s. 8, see foot-note headed "Partial Repeal" on p. 217, *ante*.

⁴ As to the exercise of functions of Collectors by other officers, see s. 85, *post*, p. 248.

of 1822.]

(Sec. 9.)

land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the profits derived from sources common to the co-parcenership where any such exist, and for determining the share of the Government *jama* and of the village-expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate *pattidars* and *behridars* collect from the cultivators.

A record shall likewise be formed of the rates per *bigha* of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the *sadar malguzar* or other manager, and the cultivator, in lands cultivated under *kankut*, *batai* or similar engagements, with a distinct specification of all cesses or extra collections made by the *malguzar* or village-manager, or other.

The names of all the village-*patwaris* and village watchmen shall also be registered, with a statement of the amount and nature of the allowance assigned them.

And all *lakhirai* tenures shall be carefully recorded, with a specification of the nature of the tenure.

The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the *zamindars* shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government *jama*, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

Second.—Provided also that it shall be competent to Collectors¹ and other officers as aforesaid (subject to the orders of the Board² * * ³) to grant *pattas* to the several *mufassal zamindars* and *raiya*ts or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all *pattas* so granted shall form a part of the *rubakari* of settlement.

Collectors, etc., may grant *pattas* to *mufassal zamindars* and *raiya*ts.

¹ As to the exercise of functions of Collectors by other officers, see s. 86, post, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (2), ante, p. 210.

³ The words "of Commissioners," which were repealed by the Repealing Act, 1872 (16 of 1872), are omitted.

(Sec. 10.)

Power to take engagements for revenue without completing detailed inquiry.

Third.—Provided, however, that, if from the number of estates of which the leases may at once expire in any district or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any *zaminidar*, *malguzar* or farmer, without completing the detailed inquiries above directed, it shall be competent to the ¹[Board] of Revenue ²or other authority exercising the powers of ³[that Board] to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the ⁴[Local Government], but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of *mahals* of which the existing leases have been extended under the provisions of section 2 of this Regulation shall be equally applicable to estates for which such engagements shall be taken.

Power to determine which of several holders of differing interests, having separate properties in same land, shall be admitted to engage, and to prescribe distribution of profit resulting from limitation of *jama*.

10. First.—Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the ⁴[Local Government] to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties.

It is further hereby declared and enacted that it is and shall be competent to the ⁴[Local Government] in confirming the settlement of any *mahal* in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such *mahal* or in the rent or produce of such lands or *mahal*.

Mufassal settlements in cases where title of intermediate manager between Government and proprietors or hereditary occupants of soil are maintained.

Second.—In cases wherein any land appertaining to a *mahal* hitherto recognized as the *taluk*, *zamindari* or the like, of one or more *sadar malguzars*, may be owned or occupied by other persons holding under the *sadar malguzar* and possessing an heritable and transferable property therein or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said *sadar malguzar* to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate *malguzar* or manager between the Government and the proprietors or

¹ This word "Board" was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see post, p. 746.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), ante, p. 210.

³ These words "that Board" were substituted for the words "such a Board" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see post, p. 746.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 746.

of 1822.]

(Sec. 10.)

hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the *zāmindar*, *talukdar* or other hereditary intermediate *malguzar*, or the *mahal* be farmed or held *khas*, it shall be competent to the Collector¹ or other officer who may be employed in adjusting the *jama* to be assessed on such *mahal*, with the sanction of the Board² previously obtained and subject to the orders and directions of that authority, to make a *mufassal* settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants *pattas* defining the condition on which they are to hold their land, whether subordinate to the *sadar malguzar* or to the farmer or officer of Government employed in the *khas* management; and in all such cases, if engagements for the Government revenue of the *mahal* be taken from the intermediate hereditary *malguzar*, the particulars of the *mufassal* settlement, when approved by the Board,² shall be endorsed on the *patta* to be granted to the *sadar malguzar*, or shall be so incorporated with the engagement taken from him as to form part of the same.

Third.—In cases in which two or more persons may possess a joint property in any village, *mahal* or parcel of land, or in the rent or produce of any village, *mahal* or land, or in any part of such village, *mahal*, land, rent or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any *mahal*, village, land, produce or rent may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector,¹ subject to the orders and direction of the Board² and of the ³ [Local Government], either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the *mahal* as *sadar malguzars*, due advertence being had to the wishes of all the co-parceners, and to the past custom of the village or villages comprised in the *mahal*.

Fourth.—When it shall be determined to make a joint settlement for any village, *mahal* or parcel of land with the parties possessing therein a joint property as aforesaid, the Collector or other officer¹ making the settlement shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, *mahal* or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly

Settlement where several persons hold common property subject to common obligations

When joint settlement to be made, parties how summoned.

¹ As to the exercise of functions of Collectors by other officers, see s. 85, post, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (4), ante, p. 210.

³ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor.—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 745.

(Sec. 10.)

authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the *jama* proposed to be assessed on the village or land.

Persons
willfully
failing to
attend when
summoned,
to be bound
by decision
of majority
present.

Fifth.—If any person or persons, when summoned as above, shall refuse, neglect or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the *jama*, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.

Treatment of
parceners
not joining
in settlement.

Sixth.—If any person or persons shall attend and shall object to the *jama* proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the *mahal* being farmed or held *khas*: and, in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Rates of
rent of
cultivating
proprietors
of lands of
which
revenue
collected
khas or
farmed.

Seventh.—When any *mahal* or portion of a *mahal*, held by a number of cultivating proprietors in *pattidari* or *bhaiya chāra* tenure or the like, shall be let in farm or held *khas*, the rent demandable from the proprietors of such *mahal* or portion of *mahal*, on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by *raiyyats* or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five *per cent.*, on account of *malikana*, or such other rate, not being less than five *per cent.*, as Government may determine.

Liability for
default of
non-engaging
parceners
when
settlement
of *mahal*
made with
one or more
of them as
sadar
malguzar.

Eighth.—When it shall be determined to make a settlement of a *mahal* of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as *sadar malguzar*, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the *sadar malguzars*, save and except in so far as may be specifically provided.

Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the *sadar malguzar* at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted, for vesting the *sadar*

of 1822.]

(Sec. 11.)

malguzars with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them.

The responsibility attaching to the persons selected as *sadar malguzars* and the conditions under which they are to hold that title of management will in each case be specifically declared at or after the time when the settlement is confirmed.

The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

Ninth.—Provided further that, in all cases wherein different parcels of land belonging to any *mahal* may be separately owned and occupied by different proprietors or by different bodies of proprietors, it shall be competent to the ¹[Board] of Revenue or other authority exercising the powers of that Board ² to cause a separate settlement to be made for the land owned and occupied by each proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it :

Parcels separately owned and occupied may be separately settled.

Provided also that, if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a Collector or other officer³ making or revising a settlement to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such Collector or other officer,³ with the sanction of the Board² or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them or with such as may desire to enter into separate engagements.

Power to partition and to settle separately with each proprietor.

Tenth.—In all cases wherein any proprietors may be excluded from engagements the Collector³ shall be careful to let it be known that all persons possessing a property in the *mahal* are entitled to have their names recorded in the *rubrikari* of settlement, with the amount or rate of the assessment demandable from each.

Proprietors excluded from engagements may have their names registered.

11. First.—The Collector's³ proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall, in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made.

Collectors forming such registry to proceed on basis of actual possession.

In conformity with the above principle it shall be competent to the Collectors³ or other officers when making or revising settlements, or otherwise deputed to investigate and determine

¹ This word "Board" in s. 10 (9) was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—*see post*, p. 746.

² As to the exercise of functions of the Board of Revenue by other authorities, *see* references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4(2), *ante*, p. 210.

³ As to the exercise of functions of Collectors by other officers, *see* s. 86, *post*, p. 248.

(Sec. 12.)

the circumstances of any *mahal*, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of the persons found in the *bond fide* possession of land or in the receipt of rent under a proprietary title; and in such cases the Collector¹ will hold an official proceeding, explaining fully the grounds on which he may act.

In estates held under *pattidari*, *bhaiya chāra* or like tenure, Collectors may re-allot revenue and charges payable by several pargeners;

²12. *First*.—In cases in which the proportion of the Government *jama* and village-expenses payable by each proprietor and by each body of proprietors comprised in the several *pattis*, *behris* and other divisions of an estate held under *pattidari* or *bhaiya chāra* tenure or the like may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the Collector¹ or other officer making or revising the settlement shall be satisfied, by examination of the *patwaris*' accounts or otherwise, that the contributions paid by any proprietor, or body of proprietors as aforesaid are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board,³ to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the *kanungo*, and such person or persons as he may judge it advisable to appoint, and to settle the *jama* payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.

and in certain cases may make fresh partition of land.

Second.—In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the *jama* payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village, with reference to the share recorded as belonging to each, it shall be competent to the Collector¹ to cause a fresh partition of the lands and adjustment of the *jama* to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable:

¹ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

² As to the partial repeal of s. 12 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1888 (9 of 1888), s. 2, see foot-note headed "Partial Repeal" on p. 217, *ante*.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

of 1822.]

(Secs. 13, 14.)

Provided, however, that no such partition or adjustment shall be final until confirmed by the Board¹ or other authority exercising the powers of that Board¹:

Provided also that, if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the Collector³ may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprised in the *mahal* to which he may belong, in any case in which the Collector³ may have refused to order it, it shall be competent to the said party to bring a regular suit in the *Zila* Court against the person or persons to whom the land may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's³ decision; but, if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land or adjustment of the *jama*;

Cases in which parties affected by Collector's decision may contest it in Court.

and, whenever the decision of a Collector³ for the partition of any land shall be set aside, it will of course belong to the Revenue-authorities to re-adjust the *jama* with reference to the interests of the parties as defined and settled by the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment.

On what points revenue-officer's decision conclusive.

13. Collectors³ and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some other [law], do any act tending to disturb possession, but shall leave the *Adalat* to investigate in a regular suit all claims of persons not in possession but deeming themselves entitled to be so.

Collectors not to disturb possession unless specially authorized.

⁶ **14.** *First.*—Collectors³ making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the *rubakari* of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination;

Collectors making or revising settlements may declare nature and extent of interests of persons occupying land.

¹ As to the exercise of functions of the Board by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

² The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

⁴ The word "law", in s. 13, was substituted for the word "Regulation" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 746.

⁵ As to the partial repeal of s. 14 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1838 (9 of 1838), s. 3, see foot-note headed "Partial Repeal" on p. 217, *ante*.

(Sec. 14.)

so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under *pattidari*, *bhaiya chāra* on the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector¹ to decide the point in the first instance in his *rubakari* of settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts to try the right;

but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the Collector¹ in regard to the amount or proportion of *jama* to be assessed on any parcel of land, or in respect to the quantity and description of land, to be assigned in partition to the holder of any specific share of a joint estate.

Cognizance
of claims to
larger profits,
or larger share
of village,
than hitherto.

Second.—The above rule shall not be construed to empower Collectors,¹ unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profits than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.

Maintenance
by Courts of
decisions of
Revenue-
officers.

Third.—The decisions passed by the Collectors¹ under the above powers, if not altered or annulled by the Board² or by Government, shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the Revenue-authorities relative to the *jama* to be assessed on any *mahal* or portion of a *mahal*, or to the extent and description of lands belonging to any *mahal* that may be assigned on the partition of the same to the several parceners concerned.

Bar to
interference
by Courts.

Cognizance
by Collectors
of complaints
of wrongful
dispossession.

Fourth.—If any person shall complain to a Collector¹ or other officer making or revising the settlement of any *mahal* that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, within such *mahal*, or of the rents, produce or profits of such lands, premises, etc.; the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the Collector¹ or other officer aforesaid to inquire into the matter, and, if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the Collector¹ to restore or confirm him, recording the grounds of his

¹ As to the exercise of functions of Collectors by other officers, see s. 36, post, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), ante, p. 210.

of 1822.]

(Sec. 15.)

determination in a *rubakari*; and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right.

In like manner, should a Collector¹ or other officer as aforesaid find that there exist in any *mahal* of which he may be making or revising the settlement any disputes, relative to the possession of lands, premises or the like which it may be expedient to adjust, it shall be competent to the Collector¹ or other officer aforesaid to pass a decision determining the point of possession, leaving the question of right, if further disputed, to be settled by the result of a regular suit in the *Adalat*.

Adjustment
of disputes
as to
possession.

Fifth.—The above provisions will be held to apply to all cases in which a *zamindar* or under-tenant, whether farmer or *raiya*, having by special deed or prescriptive title a right of occupancy, shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents and profits of any land which were received by such dispossessed party in the preceding year shall be withheld from him without a legal award, or a voluntary act of the party involving the transfer, renunciation or relinquishment of such rents and profits.

Cases to which
foregoing
provisions
apply.

But the above rule shall not apply to any case in which the complaining party may have executed any deed purporting to be a relinquishment of possession, unless it shall have been established by some judicial proceeding that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.

15. In the settlement of any resumed *mahal* held or pretended to be held under *sanads* from the ruling power, or from the *amils* or other officers of the Government, whether such lands shall have been heretofore subject to the payment of revenue or otherwise, it shall be competent to the Collector¹ or other officer making the settlement to hear, try and determine all claims to the property and possession of the land comprising such *mahal*, or the rents or produce thereof, anything in the existing Regulations notwithstanding, and subject to the orders and direction of the Board of Revenue or other authority exercising the powers of that Board² to give possession to, and conclude a settlement with, the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the *Zila* * * * Court, by which * * * all decisions passed by the Revenue-authorities under this

In settling
resumed
mahals
Collectors
may take
cognizance of
claims to
property
therein;

and may give
possession to
parties
appearing to
have best
title.

¹ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in footnote to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "or Provincial," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "according to the value of the interest at stake," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 16, 17.)

Limitation of rule.

Power to grant to Collectors making or revising settlements special authority to take cognizance of claims to property and possession of land.

section may, on such suit being fully heard, sued and determined, and not otherwise, be revised, annulled or altered.

The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves or their representatives, the settlement of which shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.

16. It shall be competent to the ¹[Local Government] to grant to a Collector ² making or revising the settlement of any *mahal*, whether the same may have been held by a *lakhiraj* tenure resumed, or being *malguzari* may have become open to re-settlement in ordinary course, special authority to hear, try and determine as above all claims to the property and possession of the lands lying within such *mahal* or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board ³ and further subject, as above, to the revision of the *Zila* * * * Court on a regular suit:

Provided also that, whenever special authority may be given to any Collector ² as aforesaid, notice of the order of Government shall be published by a proclamation within the *mahals* to which the authority so given may extend; and it shall be the duty of the Collectors ² and the ⁴[Board ³] to see that such proclamation is duly made.

But no decision passed by a Collector ² under this or any other section whereby such notification is required shall be disturbed by any Court of Judicature, otherwise than after a full and regular investigation of merits, on the plea that proclamation was not made.

Power to take cognizance of claims to property in lands held *lakhiraj*, or at a *mukarrari jama*, under valid tenures, and to settle with proprietors on behalf of *lakhirajdar* or *mukarrari-dar*.

17. It shall be competent to Collectors ² and other officers engaged in making or revising the settlement of any *pargana*, *mauza* or other local division, on the application of persons claiming a right of property in lands held free of assessment, or at a *mukarrari jama*, under unquestioned grants from the ruling power, or from the *amils* or other officers of Government, and situate within or adjoining to such *pargana*, *mauza* or other local division, to receive, try and determine the claim; and, if satisfied that the applicants do possess or are entitled to possess an hereditary and transferable property in the land or the produce or rent thereof, the Collector ² or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1908), Sch. II—*post*, p. 745.

² As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

⁴ The words "or Provincial," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ This word "Board", in s. 16, was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 746.

of 1822.]

(Secs. 18, 19.)

lakhiraidar or *mukarraridar* for such period as the ¹[Local Government] may direct, and shall grant to each of the said proprietors *pattas* defining the conditions on which they are to hold their lands subordinate to the *lakhirajdar* or *mukarraridar*.

It shall further be competent to the Collector², under the orders of the Board³, to fix and declare the amount of *malikana* or other proprietary allowance to be paid by such *lakhirajdars* or *mukarraridars* to the said proprietors, in the event of their being divested of the occupancy and management of their lands:

Provided, however, that either party who may be dissatisfied with the decision of the Collector² as to the question of the right of property shall be at liberty to contest the same in a regular suit in the *Adalat*; but the Court shall not interfere to alter the terms on which the settlement may have been made by the Collector² with proprietors, or the amount of *malikana* granted to such persons.

18. The Collector² shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board³ and of Government; and the Courts of Judicature shall not disturb possession given by the Collector² except on a regular suit, and on a decision as to the right.

Collectors to be judges of question of jurisdiction.

19. First.—It shall be competent to Collectors², when prosecuting the above enquiries or hearing and trying the above suits, or otherwise when authorized in that behalf by the Board³ to which they may be subordinate, to require all *sadar mal-guzars* and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the *mahal* to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the *gum-ashtas* or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or revenue, and to examine the said persons on oath,⁵ or *halafnama* to the truth of the accounts produced, or any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the *mahal* or the rights and interests attaching to such lands, produce, rent or revenue⁶:

Collectors authorized to summon witnesses and require production of accounts.

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1903), Sch. II, post, p. 745.

² As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 238.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (2), ante, p. 210.

⁴ The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-73, Bd. 1909, p. 385.

⁶ As to penalty on landholders for not attending when summoned by the Collector, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), post, p. 329.

(Sec. 20.)

Provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false not being an interest arising out of fear, favour or reward, or any corrupt bargain or agreement with another party.

Rules of Regulation 2, 1819, applied to process issued by Collectors;

also to *patwaris* and others summoned or examined.

Second.—The rules contained in section 11, Regulation 2, 1819,¹ relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to processes issued by Collectors² or other officers under the rules contained in this Regulation.

Powers of Collectors.

Rules applied to other persons upon whom process may be issued.

In like manner the provisions of section 12 of the said Regulation shall be applicable to all *patwaris*, *gumashtas* or other persons by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration, when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce :

Provided further that Collector² and other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors² in cases depending before them under Regulation 2, 1819¹; and the rules contained in clause third, sections³ 13, 14 and 19 of the said Regulation shall be and be held applicable to all persons who may be summoned by any Collector² or other officer aforesaid, or who may resist the process of a Collector² issued under the rules of this Regulation, or who may refuse to take an oath⁴ or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.

Powers ordinarily vested in Collectors making or revising settlements.

20. First.—The powers specified in sections 11, 12, 14, 16, 17, 18 and 19 of this Regulation shall be ordinarily exercised by Collectors² when employed in making or revising settlements

¹ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

² As to the exercise of functions of Collectors by other officers, *see* s. 35, *post*, p. 248.

³ *See* in Clarke.

⁴ As to oaths, *see* the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 386.

⁵ As to the partial repeal of s. 20 by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1838 (9 of 1838), s. 3, *see* foot-note headed "Partial Repeal" on p. 217, *ante*.

So much of s. 20 and the following sections as applies to suits for rent, to complaints of excessive demand or undue exaction of rent, or of the non-delivery of *pattas* or receipts, to suits against agents for money by accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land, has been repealed by the Bengal Rent Act, 1859 (10 of 1859), wherever that Act extended. The matter printed in italics in this section seems to be obsolete in consequence of that repeal.

of 1822.]

(S^c. 20.)

of the land-revenue, and shall extend to all the lands comprised in the *pargana* in which he may be so employed; but it shall be competent to ¹[the Local Government, by notification in the local official Gazette,] to be publicly proclaimed in the district, to restrict the authority of Collectors² and other officers making settlements in such manner and to such extent as ³[it] may from time to time judge expedient.

In like manner it shall be competent to ⁴[the Local Government] to vest such Collectors² as may from time to time be judged fit with a special authority to receive, try and determine in the first instance, subject to a regular suit in the *Adalat* as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said Collectors² may not be engaged in making or revising a settlement of the land-revenue,

⁵*and to vest in such of the Collectors as may be thought proper authority (either generally or within such limits as may be from time to time determined) to receive, try and determine by summary process all suits for rent which may be preferred by zamindars, talukdars or other sadar malguzars or farmers of land, or by any person in their behalf, against any dependent talukdar, zamindar, under-renter, raiyat or other under-tenant of whatever denomination, as well as all applications by raiyats and the under-tenants contesting the demand of a sadar malguzar or farmer;*

and all complaints preferred by raiyats or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt or payment of the rent of land, whether malguzari or lakhiraj, or with the rent of orchards, pasture-grounds and fisheries, commonly denominated phalkar, bankar and jalkar, or with any other asset of the land-revenue not included in the sair abolished, together with all complaints of the non-delivery of pattas when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of rent, and generally complaints of any

¹ The words "the Government, by an Order in Council," in the original text, are to be read as if the words "the Local Government, by notification in the local official Gazette," were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 746.

² As to the exercise of functions of Collectors by other officers, see s. 3b, *post*, p. 248.

³ The word "he" in the original text is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 746.

⁴ The word "Government," in the original text, is to be read as if the words "the Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 746.

⁵ The matter printed in italics seems to be obsolete—see foot-note ⁶ on page 238 ante.

(Sec. 21.)

*deviation from the Regulations, or from the established usage of the country, relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land between landholders or farmers of land and their under-tenants of whatever denomination.*¹

Appointment of Collector to discharge above duties, how notified.

Second.—The appointment of the Collector² to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such manner as the ³ [Local Government] may direct;

and, after the publication of notice, all summary suits, actions, applications and complaints of the above nature, and referring to lands or the rents, produce or accessions of land lying within the jurisdiction assigned to the Collector as above, which may be preferred in the Zila * * * Adalat by any sadar malguzar, zamindar, talukdar, farmer, raiyat or other proprietor or under-tenant of land, shall immediately, on being received, be referred for trial to the Collector to whom also all such summary suits depending at the time shall be transferred:

*Provided also that in such cases parties having suits or complaints to prefer, of which the cognizance may be vested as above in the Collector, shall be at liberty to prefer them to that officer in the first instance*⁴.

It shall in like manner be competent to the ⁵ [Local Government] to fix,⁶ [by notification in the local official Gazette], the period at which the special powers given as above to a Collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

Limitation of time for preferring complaints specified.

Third.—No complaint or application of the nature specified in the preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen¹.

Rules for guidance of Collectors; their powers.

21. *In summary suits for rent and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors shall be guided by the same rules, and shall exercise the same powers and authority, as are or may be lawfully exercised by the Zila and City Judges.*

¹ The matter printed in italics seems to be obsolete—see footnote ⁶ on p. 238, ante.

² As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 248.

³ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, post, p. 746.

⁴ The words "or City," in s. 20 (2), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The words "Governor General," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, post, p. 746.

⁶ The words "by an Order in Council," in the original text, are to be read as if the words "by notification in the local official Gazette" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, post, p. 746.

of 1822.]

(Secs. 22, 23.)

In other cases falling under their cognizance according to the provisions of this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the Collector¹ for conducting the investigation ; .

Should any party fail to attend after being served with a notice of the above description, or should the return of the *nazir* or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that, after 15 days from the date of publishing the same, the case will be liable to be brought up for trial and judgment; and any party implicated, who, having been served with the notice above described, shall fail to attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.

22. (*Extension of ss. 18 and 19 of Reg. 8 of 1819.*) *Rep. by the Bengal Rent Act, 1859 (10 of 1859).*

23. First.—It is hereby declared and enacted that, in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors¹ of land-revenue, or other officer, by virtue of the powers vested in them by this Regulation or any ³[other law] whereby Collectors³ are vested with judicial powers, their *cutcherry* or office for the time being shall be deemed and held to be a Court of Civil Judicature.

Collector's
cutcherry
held a Civil
Court.

Second.—Provided also that the regular suits which may be brought to contest decisions passed by Collectors¹ under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19 and 20 shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector¹ or other officer of Government to be a party in the action.

Suits to
contest
Collector's
decisions held
to be appeals
from summary
awards.

Third.—Collectors¹ of the land-revenue are hereby empowered to execute all awards made by them under the rules of this Regulation, in cases wherein a specific sum of

Collectors
authorized
to execute
their awards.

¹ As to the exercise of functions of Collectors by other officers, *see* s. 85, *post*, p. 248.

² Section 23 (1) has been applied—

by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 8 (9), (*post*, p. 274), to cases investigated by Collectors under that Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), (*ante*, p. 171); and

by the Cess Act, 1880 (Ben. Act 9 of 1880), s. 92 (printed in Vol. II of this Code), to the making of valuations of lands under Part II of that Act.

³ The words "other law", in s. 23 (1), were substituted for the words "other Regulation" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—*see post*, p. 748.

(Sec. 24.)

money shall be adjudged to be due, or any costs or damages be awarded; the Collector¹ decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process in use for the recovery of arrears of the Government revenue:

Provided, however, that he shall not sell any lands, houses or other real property in satisfaction of any judgment passed in favour of any individual on a summary inquiry.²

In cases wherein possession of lands, houses, watercourses or the like may be adjudged, it may and shall be lawful for the Collector¹ making the award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like as are or may be lawfully exercised by the Courts in giving possession to an auction-purchaser; and the *Zila* * * * *Adalats* shall support the Collectors¹ in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it in the like manner as if the same had been passed by themselves.

Collectors¹ are further hereby empowered to place one or more peons, *mirdahas*, *sawars* or the like to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

Collectors
authorized to
depute Native
officers to
make
inquiries
preparatory to
settlement.

'24. First.—It shall and may be lawful for a Collector¹ or other officer exercising the powers of Collector preparatory to making or revising a settlement as aforesaid, to depute any *tahsildar*, *kanungo*, *amin* or other fixed or temporary officer to any village or *mahal*, whether the same be managed by a *zamindar* or farmer or be held *khas*, to inquire into the various matters which such Collector¹ or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation.

Any such Native officer so deputed as above shall be deemed to be vested with the power of summoning and examining *patwaris*, *gumashtras* or other persons by whom the accounts of the village or *mahal* may be kept, in the same manner and with the same powers as it provided for officers deputed under section 25, Regulation 12, 1817.⁵

Furthermore, in case the Collector¹ or other officer may so prescribe, the said *tahsildar* or other person shall be empowered to make a measurement of the village or *mahal* into which they may be deputed, and to summon any *mukaddams*, *padhans*, *raiya*ts or other residents, and to call upon them to

¹ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

² So much of cl. 3 of s. 23 as prohibits the Collectors from selling land in satisfaction of summary awards for arrears of rent which may have accrued thereon was repealed by Act 8 of 1885, s. 1. See also the repeal by the Bengal Rent Act, 1859 (10 of 1859), mentioned in the footnote⁴ on p. 238, *ante*.

³ The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ Section 24 (1) has been applied by the Cess Act, 1880 (Ben. Act 9 of 1880), s. 92 (printed in vol. II of this Code), to the making of valuations of lands under Part II of that Act.

⁵ The Bengal Patwaris Regulation, 1817. S. 25 of the Regulation is printed *ante*, p. 146.

of 1822.]

(Secs. 25-28.)

point out the boundaries of such village or *mahal*, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable, on the same being established to the Collector's¹ satisfaction, to the same penalty as is prescribed for *patwaris* refusing to attend or give evidence.

Second.—Provided also that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector¹ or other Revenue-officer shall, in addition to the penalties prescribed by ²[any other law] for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the *Diwani* jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the Collector¹ after proceeding duly held and recorded, and the sentence to be immediately reported to the Board³ to which he may be subject.

Punishment of resistance or obstruction of process or order of Collector.

Third.—Provided further that all police-officers shall aid and support the execution of all process and orders issued by a Collector¹ or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and, if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made, or attempted to be made, to the legal process or order of a Collector¹ or other Revenue-officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the Revenue-officer shall not be liable to any criminal prosecution on that account.

Police-officers to aid execution of process and orders of Collector.

25. (*Employment of Vakils or Agents by parties in suits before Collectors.*) *Rep. by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).*

26. No other pleadings shall be required from the parties in '[suits the cognizance of which is hereby vested in Collectors] than a plaint and answer:

Pleadings required.

Provided that, if the parties should at any time wish to file an amended plaint or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

27. (*Stamped paper to be used.*) *Rep. by the Repealing Act, 1876 (12 of 1876).*

28. It shall be competent to the Collectors¹ to hear and determine such suits in whatever part of the district they may occasionally be or reside:

Collectors may try and determine suits in any part of their districts.

¹ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

² The words "any other law", in s. 24 (2), were substituted for the words "the existing Regulations" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 746.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

⁴ These words in square brackets in s. 26 were substituted for the words "such suits" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see *post*, p. 746.

⁵ S. 28 has been applied, by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (9), (*post*, p. 274), to cases investigated by the Collectors under that Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), *ante*, p. 171.

(Sec. 29.)

Provided that every hearing and decision be in public *cutcherry* or in some other place open to the public, and in the presence of the parties or of their constituted agents or *vakils*, if in attendance.

Appeal to Board.

¹ 29. *First*.—The decisions of the Collectors² on all such suits shall be appealable to the Board of Revenue or other authority exercising the powers of that Board³.

Procedure on such appeals.

The petition of appeal shall be presented either to the Collector² or to the Board,³ at the option of the party * * *⁴;

* * *⁵ the Board³ shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final *rubakari* of the Collector,² they may not see ground to consider the decision of that officer to be unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect :

When Board may direct new trial or interpose to correct neglect or delay.

* * *⁶ in all cases in which the Collector² may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board³ to direct a new trial, and, in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board³ to interfere, and to cause the Collector² to proceed upon the inquiry into and determination of it.

Pleadings required in appeals to Board.

Second.—No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board³ may think it necessary to call for.

No *mukhtar-nama* required for same agents re-employed.

Third.—If the parties choose to employ in the pleading of such appeals the same agents or *vakils* who were previously employed by them in the original suit, no further *mukhtar-nama* or *vakalatnama* shall be required of them.

Respondent to receive notice, but not required to appear.

Fourth.—The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by *vakil*; and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended.

Board's decision how far final.

Fifth.—The decision of the Board³ shall be final in as far as concerns the result of the summary inquiry of the Collector²

* * * * *

¹ As to the time for presenting an appeal under s. 29, see the Bengal Land-revenue Settlement Act, 1868 (Ben. Act 3 of 1868), in Vol. II of this Code.

² As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 248.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (*l*), *ante*, p. 210.

⁴ The words "and shall be written on stamped paper of the value of two rupees", in s. 29 (*l*), which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁵ Words as to limitation, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁶ The words "Provided also that," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁷ The words "and shall be rendered in a Persian *rubakari*, written on stamped paper of the value of ten rupees," have been omitted: the word "Persian" was repealed by Repealing Act, 1874 (16 of 1874), and the remaining words were repealed by the Repealing Act, 1876 (12 of 1876).

of 1822.]

(Secs. 30-32.)

Sixth.—Any person, however, dissatisfied with the summary judgment of the Collector¹ or the Board,² and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the *Zila* or other similar or superior Court in which it may be cognizable.

But decision of Board and Collector may be contested by regular suit.

In such cases the summary judgment of the Collector,¹ if not reversed or stayed by the Board,² shall be carried into effect notwithstanding the institution of the regular suit.

30. All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors¹ under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints, in the first instance, by a regular suit before the local *Munsif*, or in the *Zila* . . . *Adalat* . . . according as the suit may be cognizable in these Courts respectively.

Parties having claims cognizable by Collectors, and not wishing summary trial, may in first instance bring regular suit.

31. First.—Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a Collector¹ the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case.

On appeal against Collector's decision his proceedings to be on record.

Second.— . . . all . . . *Munsifs* shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by Collectors¹ or other Revenue-officers under the provisions of this Regulation, unless the same shall have been rescinded or altered by the Board² or by the *Zila* or other similar or superior Court, on a regular suit.

No such appeal cognizable by, or referable to, any *Munsif*.

32. The Collectors¹ shall transmit to the ³[Board²] such periodical reports of the causes decided by, or depending before, them as the ⁴[Board²] may direct, and the ⁵[Board²] will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the ⁶[Local Government] shall from time to time require.

Periodical reports by Collectors to Boards.

¹ As to the exercise of functions of Collectors by other authorities, see s. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "or Provincial Court of the Division," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The words "under the general Regulations for the administration of civil justice," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ The words "Provided also that" are omitted as having been repealed by the Repealing and Amending Act, 1903 (1 of 1903), and the words "no such suit shall be cognizable by, or referable to, any register, *sadar amin* or *munsif*, and" are omitted as having been repealed partly by Act 25 of 1837 and partly by the Repealing Act, 1874 (16 of 1874).

⁷ The words "registers, *sadar amins* and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁸ This word "Board" was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 746.

⁹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 745.

(Secs. 33, 34.)

Collectors authorized to refer certain cases to arbitration.

33. First.—It shall be competent to Collectors¹ or other officers exercising the powers of Collectors to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land or the tenures therein, or the rights dependent thereon, that may come before them, provided the parties consent to that mode of adjustment, and, on award being made, to cause the same to be executed.

Force of awards passed on such reference.

In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the Collector¹ * * *² shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths³ and to enforce the orders passed by the arbitrators under such powers, in the same manner as the Courts of Judicature are empowered to do; and all awards made on such references shall, when confirmed by the Collector,¹ have the same force and validity as a regular decree of the *Adalat*, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality or shall extend beyond the authority given by the submission of the parties; and such ground of impeachment shall be established in a regular suit in the *Zila*, * * *⁴ or other superior Court wherein the case may be cognizable.

Matter of arbitration to be distinctly specified in Collector's proceedings.

Second.—In referring any dispute to arbitration, the Collector¹ shall be careful to specify in his proceedings, and in the deed of arbitration to be executed by the parties, the precise matter submitted to the arbitrators; and, if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the Collector¹ again to refer the matter to them, with directions to perfect their award.

Kanungos and tahsildars may be employed as arbitrators.

Third.—The *pargana kanungos* and *tahsildars* may be appointed arbitrators in any case referred to arbitration under the above rules; anything in the existing Regulations notwithstanding.⁵

Power of Collectors to interfere in cases of disputed possession;

34. First.—When a Collector¹ or other officer exercising any of the powers vested in Collectors by the rules of this Regulation, relative to complaints of dispossession or disturbance of the possession of lands or premises, shall learn, either by a reference from the Magistrate, or by a report from any other public officer or otherwise, that any disputes exist

¹ As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 218.

² The words and figures "shall be guided by the rules contained in Regulation 16, 1793, and the other corresponding enactments, and in Regulation 6, 1813, in so far as the same may be applicable, and", in s. 33 (1), which were repealed by the Repealing Act, 1871 (16 of 1871), are omitted.

³ As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 885.

⁴ The word "City," which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁵ For additional rules as to arbitration, see the Bengal Land-revenue Settlement and Deputy Collectors' Regulation, 1888 (9 of 1888), ss. 6 to 10, *post*, p. 818.

of 1822.]

(Sec. 34.)

within the tract placed under his jurisdiction, relative to any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, watercourses, tanks, reservoirs or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the Collector¹ or other officer aforesaid to require the contending parties to attend in person or by representative at a stated time and place, and, after investigating the case in the presence of the parties or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties:

Provided also that, if the fact of previous lawful possession cannot be ascertained, it shall be competent to the Collector,¹ subject to the orders and direction of the Board,² to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in Court; but no such decision shall be passed by any Collector¹ until he shall have instituted a careful inquiry into the fact of possession, and the Board² shall be careful to see that this restriction is observed:

Provided further that in such cases it shall be competent to the Collector¹ to attach the disputed lands, premises, etc., as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession.

Second.—Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate, in cases in which the Collector¹ shall be vested with the cognizance of such actions, to certify the case to that officer, and the Collector¹ will then forthwith proceed to investigate and determine the case under the rules above prescribed:

Provided also that, in all cases of forcible dispossession or forcible disturbance of possession, the Collector¹ shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case, and also a copy of the *rubakari* containing his final award.

Third.—The Collector¹ shall in all such cases use every proper means for inducing the parties to refer their disputes

¹ As to the exercise of functions of Collectors by other officers, see §. 35, *post*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

[Ben. Reg. 7 of 1822.]

(Sec. 35.)

to arbitration, in like manner as the *Diwani* Courts are directed to do.

"Board of
Revenue."

35. Whenever the term "Board of Revenue" * * *¹ may occur in this or any other Regulation, the same shall be held and considered to apply² to any Board, committee or commission, and to any member of such Board, committee or commission, that may be vested by the Governor General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided.

Rules
regarding
Collectors to
apply to
officer
exercising
authority of
Collector.

In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in, Collectors shall be held and considered to be equally applicable to any officer exercising the authority of Collector under the orders or with the sanction of the³ [Local Government].

¹The words "or Board of Commissioners," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

²For references to further provisions on this subject, see foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 745.

BENGAL REGULATION 11 OF 1822

(THE BENGAL GOVERNMENT INDEMNITY REGULATION, 1822).¹

(22nd November, 1822.)

A Regulation " " " " for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice, and for making further provision for the conduct of the Revenue-officers in certain cases.

1. (*Preamble.*) *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

2. (*Repeals.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3 to 35. (*Public sale of lands for arrears of revenue.*) *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

36. If a Collector³ shall at any time, being so instructed by either the Government or the Board,⁴ purchase on account of Government an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary *malguzari mahals* held *khas* or farmed shall be considered applicable to such estate, and also to all other estates the property of Government, according as they may be held *khas* or let in farm.

Rules for *khas* management applied to purchases by Government.

37. (*Collector's power to punish for contempt.*) *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

38. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Government not liable for errors of Courts.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid: and if any person or persons

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 1—see *post*, p. 728.

LOCAL EXTENT.—Ss. 36 and 38 of this Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

Ss. 36 and 38 have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Part IV.

The application of ss. 36 and 38 is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² The words "for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of revenue," which were repealed by the Repealing and Amending Act, 1891² (12 of 1891), are omitted.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

[Ben. Reg. 11 of 1822.]

(Sec. 39.)

shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be non-suited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

39. (*Saving of Ben. Reg. 1 of 1821.*) *Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).*

BENGAL REGULATION 6 OF 1823

(THE BENGAL INDIGO CONTRACTS REGULATION, 1823).

CONTENTS.

SECTION.

1. Preamble.
2. When persons making advances for cultivation of indigo-plant on certain land have lien on, or interest in, its produce.
3. *First*.—Such person how to proceed when he has just reason to believe that *raiyat* will dispose of produce otherwise than stipulated.
Second.—Summons for attendance of defendant.
Third.—Summons how served, and public notice of claim how given.
Fourth.—On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.
Fifth.—In what cases award shall be passed, adjudging plaintiff's right to produce.
Sixth.—If claim be not established, plaintiff to pay costs and compensation to defendant.
Seventh.—Notice to third parties in what cases, and their claims how investigated.
Eighth.—Defendant not to be subjected to unnecessary detention.
Ninth.—In what cases order may issue to deliver plant to a party, before summary inquiry completed.
4. *First*.—Authority to watch fields and to prevent removal of plant given to parties in certain circumstances.
Second.—Security for rent due to landholders how provided.
5. *First*.—Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.
Second.—Judgment to what extent in summary suits.
Third.—(*Repealed*.)
Fourth.—Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty.
6. Investigations how and by whom conducted.
- 7, 8. (*Repealed*.)

BENGAL REGULATION 6 OF 1823

(THE BENGAL INDIGO CONTRACTS REGULATION, 1823).¹

(10th July, 1823.)

A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.

1. The poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption. Preamble.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market price at a specified season; and this system is understood generally to prevail in the Province of Bengal² in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting *raiyat* should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances for the non-employment of his capital.

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post*, p. 728.

LOCAL EXTENT.—This Regulation was enacted for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 254.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

FURTHER ENACTMENTS.—Other enactments relating to indigo contracts are — the Bengal Indigo Contracts Regulation, 1830 (5 of 1830), *post*, p. 315, and the Bengal Indigo Contracts Act, 1836 (10 of 1836), *post*, p. 321.

² This includes the present Presidency of Fort Wil

(Secs. 2, 3.)

officers as to the extent of penalty recoverable on agreements of this nature.

It seems reasonable, also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced, on that land, when so stipulated in a written engagement between the parties and especially in cases in which such written engagement may have been duly registered¹; and that it should not be in the power of a *raiya*, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays; and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal² from the date of their promulgation.

When persons making advances for cultivation of indigo-plant on certain land have lien on, or interest in, its produce.

2. If any person shall have given advances to a *raiya*, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests and for the due execution of the conditions of the contract.

Such person how to proceed when he has just reason to believe that *raiya* will dispose of produce otherwise than stipulated.

3. *First*.—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract,

¹ Portion repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

² The words and figures, "under the provisions of Regulation 20 of 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

³ This includes the present Presidency of Fort William in Bengal and other territory.

of 1823.]

(Sec. 3.)

by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zila Judge * * * * *¹ within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bond fide* executed by the individual complained against.

Second.—On such petition and original deed of engagement being filed, a summons, or *tatab chitthi*, shall be immediately issued through the *nazir* in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons for attendance of defendant.

Third.—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village *cutcherry* or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

Summons how served.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

and public notice of claim how given.

Fourth.—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be referred in bar of that of the plaintiff, the Judge * * *² shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the

In what cases a *ward* shall be passed, adjudging plaintiff right to produce.

¹ The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

² The words "or to a register exercising the powers of a Magistrate," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words "or other officer" which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Sec. 3.)

execution of the deed of engagement filed by the complainant. proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court * * * *¹ and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crops according to the terms of the agreement.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

If claim
be not
established,
plaintiff
to pay
costs and
compensation
to defendant.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs and such reasonable sum in addition as may seem to the Judge * * * *² a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Whereby
third parties
in what cases,
and their
claims how
investigated.

Seventh.—If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by *vakil*; and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge * * * *² shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and, if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered * * * *³.

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

Defendant
not to be
subjected to
unnecessary
detention.

Eighth.—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained; longer than may suffice to take his answer to the claim and to obtain from him such further explanations as the nature of the answer may suggest.

In what cases
order may
be made to
deliver plant
to a party,
before
summary
inquiry
completed.

Ninth.—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge * * * *³.

¹ The words "or other tribunal trying the case", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

² The words "or other officer trying the case", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The words and figures "under the provisions of Regulation 20, 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

of 1823.]

(Secs. 4, 5)

to pass an order¹ for the delivery of the plant to either of the parties provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation;

the amount of such compensation shall be fixed by the Judge * * * in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.

4. *First*.—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement;

Authority to watch fields and to prevent removal of plant given to parties in certain circumstances.

and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police *daroga* and to claim from him the assistance of the police in preventing such removal;

it shall, moreover, be the duty of the police-officers and of all other officers on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Second.—In order that the foregoing rule may not operate to the prejudice of the landholders, who * * * are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided that, whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the *raiyat*, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

Security for rent due to landholders how provided.

5. *First*.—In cases in which a *raiyat* who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made, shall be at liberty to institute, at his option, either a summary or a regular suit.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.

¹ As to security to be given by a person desiring to remove indigo-plant, ordered to be delivered to him under cl. (9) of s. 3, see the Bengal Indigo Contracts Act, 1886 (10 of 1886), s. 2, *post*, p. 321.

² The words "or other person trying the case," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The words "by the existing Regulations," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[Ben. Reg. 6 of 1823.]

(Secs. 6-8.)

Judgment to
what extent
in summary
suits.

Second.—If the summary process be adopted and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Third.—(*Judgments in regular suits.*) *Rep. by the Bengal Indigo Contracts Act, 1836 (10 of 1836).*

Penalty in
regular suits
where breach
of contract
not ascribable
to fraud or
dishonesty.

Fourth.—If no fraud or dishonest dealing be established, and the failure of a *raiya*t or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

Investigations
how and by
whom
conducted.

6. * * *¹ investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of * * *¹ suits for arrears of rent * * *². It shall * * *² be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside * * *³, or who may be otherwise dissatisfied with the decision passed on * * *¹ [an investigation] under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

7, 8. (*Stamp on contract concerning indigo-plant; such contract may include several individuals and separate transactions.*) *Rep. by the Court-fees Act, 1870 (7 of 1870).*

¹ The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

² Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words "by a summary award," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words in square brackets in s. 6 were substituted for the words "a investigation" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 837. •

BENGAL REGULATION 7 OF 1823

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION
REGULATION, 1823].¹

(30th October, 1823.)

**A Regulation for prohibiting loans by covenanted Civil Servants
from persons subject to their official authority and influence.**

1. Whereas by the existing Regulations² all covenanted Civil Servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent *talukdar*, under-farmer or *raiyat*, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the provinces immediately subject to this Presidency.³

2. *First*.—All covenanted Civil Servants, in whatever department of the public service they may be employed, are henceforward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

Preamble.

Civil Servants prohibited from borrowing money from Native officers under their authority, etc.;

¹SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 643.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see *s. 1*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri and the Western Duars, in the Jalpaiguri District—see Vol. IV, Part IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

APPLICATION.—The present Regulation relates to loans to officials. As to loans by officials, see the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793 (38 of 1793), *ante*, p. 71.

GIFTS TO OFFICIALS.—For prohibition of receipt of gifts by officials, see—

the East India Company Act, 1772 (13 Geo. 3, c. 63), ss. 28 to 25 (printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 12);

the East India Company Act, 1793 (38 Geo. 3, c. 52), ss. 62 to 64, 66 (printed in *ibid*, pp. 65, 66), and

the Government of India Act, 1833 (3 & 4 Will. 4, c. 85), s. 78 (printed in *ibid*, p. 178).

²See now the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1798 (38 of 1798), *ante*, p. 71.

³This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 3-8.)

and from
other persons
officially
accountable
to them.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted Civil Servants,¹ are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, *amin*, *sazawal*, *gumashta*, farmer, *mutawalli* or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person.

Third.—(Rules applied to commercial officers.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Certain
officers
prohibited
from incurring
debt to
zamindars
and others
residing, or
having
property,
within their
districts.

Penalty for
lending
money to Civil
Servants.

3. [All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service], are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any *zamindar*, *talukdar*, *raiyat* or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted Civil Servant, in contravention of the above rules: and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

5. (Report by officers in debt.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Penalty for
officers
receiving new
appointments,
if indebted to
individuals
contrary to
above rules,
omitting to
report.

6. * * *, if any covenanted servant who may be herein-after appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the [Local Government]; and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

7. (Penalty on Natives knowingly taking office in contravention of above rules.) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

Suits for
recovery of
penalties.

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the [Local Government], and shall be conducted

¹ As to the extension of this prohibition to other officers of the Government, see the Government Servants' Conduct Rules, 1904, rule 7.

² These words in square brackets were substituted for the original words by the Amending Act 1897 (5 of 1897), Sch. II—see post, p. 637.

³ The words "In like manner," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ These words "Local Government" in ss. 6 and 8 were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897), Sch. II—see post, p. 637.

(Sec. 8.)

by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as ¹[the Local Government] may nominate for that purpose.

Such suits shall be instituted in the * * ²Court of the division within which the transaction may have taken place; or the lender may reside or may possess real or personal property.

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits * * ³; and the judgments shall be enforced under the provisions * * ⁴for the execution of other decrees of the Civil Courts.

¹ These words "the Local Government", in s. 8, were substituted for the word "Government" by the Amending Act, 1897 (5 of 1897), Sch. II—*see post*, p. 637.

² The word "Provincial," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

³ The words "by the Provincial Courts," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "of the Regulations," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted—*see now* the Code of Civil Procedure (Act 5 of 1908), in General Acts, 1904-08, Ed. 1909, p. 141.

BENGAL REGULATION '6 OF 1825

(THE BENGAL TROOPS TRANSPORT REGULATION, 1825).¹

(4th April, 1825.)

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.

1. Whereas it is enacted in the first clause of section 3' Preamble.
Regulation 11, 1806,² that, on receiving the notification mentioned in the preceding section relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector³ of the district shall immediately issue the necessary orders to the landholders, farmers, *tahsildars*, or other persons in charge of the lands through which the troops are to pass for providing the supplies required and for making any requisite preparation of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nalas* as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current *bazar* prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or *nalas*, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors³ or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, *tahsildar* or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 613.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 468), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 8, to be in force in West Jalpaiguri and the Western Duars, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 796.

² The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 111.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *ante*, p. 248.

the Provinces immediately subject to the Presidency of Fort William.¹

Penalty for
zamindars not
providing
supplies for
troops, etc.

2. Any landholder, farmer, *tahsildar* or other person in the possession or management of land, who may have been duly required by a Collector² of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation 11, 1806,³ to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or *nalas* intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience to the satisfaction of the Collector² (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector² or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand * * * rupees.

Collector
to make
summary
inquiry.

3. The Collector² or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by *vakil* for that purpose.

If he shall fail to attend, either in person or by *vakil*, the summary inquiry shall be conducted *ex parte*, and the Collector² shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

Fine how
levied.

4. The Collector² or other officer who may adjudge a fine under this Regulation shall be competent, to levy the amount by the same process⁴ as is authorized for the recovery of arrears of the public revenue :

Proviso as to
appeal.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue,⁵

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

³ The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 111.

⁴ The word "*sicca*," which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁵ See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), s. 7, in Vol. III of this Code.

⁶ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

or 1825.]

(Sec. 5.).

* * *¹ and sufficient security be tendered for performing the judgment of the Board² upon the appeal, the Collector³ shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board².

5. Appeals from the orders of Collectors³ or other public officers, adjudging fines under this Regulation, may be preferred * * * either immediately to the * * * Board,⁴ or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.⁵

Position of
appeal against
fine.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board² * * *⁶

Limitation of
appeal.

¹ The words "in whose jurisdiction the district may be situate," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(1), *ante*, p. 210.

³ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 218.

⁴ The words "on the stamped paper prescribed for other appeals to the Revenue Boards," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

⁵ The word "proper," which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁶ The words "by whom the case may be cognizable," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 9 OF 1825

[THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1825].

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7. Lands held free of assessment to be specified in proceedings.
8. Saving of certain Regulations.
- 9 (*Repealed*.)

BENGAL REGULATION 9 OF 1825.

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1825).¹

(5th May, 1825.)

A Regulation for extending the operation of Regulation 7, 1822,² for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the *malguzars*, or to hold the same *khas* for a term of years; for modifying and adding to the rules contained in Regulation 2, 1819³; and for making certain other amendments in the existing Regulations.

1. Whereas the provisions of Regulation 7, 1822², are in force only [*within the Ceded and Conquered Provinces, in the district of Cuttack, and*] in the *pargana* of Pataspur and its dependencies;

And whereas there are within the other Provinces belonging to this Presidency various *mahals* and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the Revenue-authorities should be vested, in regard to such *mahals* and tracts, with the same powers as belong to the like officers within the Ceded and Conquered Provinces;

And whereas the principle of the rules contained in the said Regulation, relative to lands held free of assessment, or at a *mukarrari jama* under special grants, is equally applicable to such tenures in all parts of the country; and it appears to be likewise expedient to make provision for the occasional exercise, by the Revenue-officers in the Lower Provinces, of the powers specified in the said Regulation, for the summary trial of certain suits between individuals, subject as therein provided to an appeal to the *Adalat* by a regular suit;

And whereas, a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908) Sch. I—see *post*, p. 728.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 270.

It has been declared, by the Laws Local Extent Act, 1874 (16 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 468), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (44 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

EXTENSION OF APPLICATION.—This Regulation has been extended to estates dealt with under the Bengal Land-revenue Sales Act, 1859 (11 of 1859)—see s. 60 of that Act; *post*, p. 446.

² The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

³ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

(Secs. 2, 3.)

assessment has not been fixed in perpetuity being inexpedient, it appears to be necessary and proper that the Revenue-authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same *khas* for the purpose of making a *raiayatwar* settlement, where that measure may be deemed advisable;

And whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation 2, 1819¹;

The following rules have been enacted, to be in force from the date of their promulgation, within the Provinces belonging to the Presidency of Fort William².

Provisions of Regulation 7, 1822, extended to lands not within limits of permanently-settled estates.

To be in force in estates held *khas*.

and applicable to *Sardardans*, etc.

Power to vest Collector, etc., with powers specified in section 20, Regulation 7 of 1822.

2. First.—The provisions contained in clause *Sixth*, section 2, and in the thirty-three following sections of Regulation 7, 1822³, are hereby extended to all lands (including *jagirs*, *mukarraris* and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation 8, 1793⁴, * * *, as far as the same may be applicable.

Second.—The said provisions shall likewise be in force in all estates which may now or hereafter be held *khas*, during the period for which they may be so managed.

Third.—The provisions aforesaid shall also apply to the Sundarbans, [*the hill lands of Bhagalpur*,] and other extensive forests and wastes, not included within the limits of *parganas*, *mauzas* or other revenue divisions, specified at the time of settlements as belonging to the *mahals* then assessed, as well as to all estates bordering on such forests or wastes.

3. It shall be competent to the [Local Government] to vest any Collector⁵ or other officer exercising the powers of Collector within the Provinces of Bengal, [*Bihar*⁶ or *Orissa*] * * *⁷ with the several powers specified in section 20, Regulation 7, 1822,⁸ in the manner specified in the second clause of that section, within such local limits as may, from time to time, appear to be advisable; and the several provisions contained in section 21 and the fourteen following sections shall apply to

¹ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

² Portion of the preamble which was repealed by the Repealing and Amending Act, 1891 (2 of 1891), is omitted.

³ This includes the present Presidency of Fort William in Bengal and other territory.

⁴ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

⁵ The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 81.

⁶ The words "and Regulations 2 and 22, 1795," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁷ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

⁸ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

⁹ This word "or" in s. 3, was inserted by the Repealing and Amending Act, 1906 (1 of 1906), Sch. II—see *post*, p. 747.

¹⁰ The words "and Benares," which were repealed by the Repealing and Amending Act, 1891 (2 of 1891), are omitted.

of 1825.]

(Secs. 4, 5.)

the several *parganas* or other local divisions so placed under the jurisdiction of the Collector or other officer for said.

4. Whenever an arrear of revenue shall accrue on account of any *mahal* for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the *malguzars* shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the Revenue-authorities is to be held conclusive), it shall be competent to the Collector¹ or other officer exercising the powers of Collector, with the sanction of the Board,² and subject to the orders of Government, to annul the existing engagements with the *malguzars*, and to let the *mahal* in farm for such period, not exceeding fifteen years, as the³ [Local Government] may appoint, or to hold the *mahal* under *khas* management for a like period.

Procedure when arrear of revenue on account of *mahals* not permanently assessed is not paid within one month after due date, and objections appear to public sale

In such cases, if the *mahal* shall yield a higher *jama* than that for which the *malguzars* may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered; and, out of any surplus remaining, the *malguzars* shall receive such *mālikana*, not being less than five *per cent.* nor more than ten *per cent.* on the assessment of the last year of their engagement, as the³ [Local Government] may direct.

5. First.—The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30⁵ of Regulation 2, 1819.⁶

Modification of Regulation 2, 1819.

Second.—Whenever a Collector¹ or other officer exercising the powers of Collector shall visit, or be about to visit, any *mahal* for the purpose of making a settlement in the manner prescribed in Regulation 7, 1822,⁷ it shall be competent to him, by a notification to be stuck up in some conspicuous place within such *mahal*, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment or at a fixed *jama*, within or adjoining to the

Collector making settlement to issue notification and require appearance of persons holding lands free of assessment;

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 747.

⁴ As to suits under section 5, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (3), (4), *post*, pp. 300, 301.

⁵ S. 30 of Ben. Reg 2 of 1819 was repealed by the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 1, and a new provision in lieu thereof was enacted by s. 2 of the same Act, printed in Vol. II of this Code.

⁶ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁷ The Bengal Land revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

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village or villages in which the lands of such *mahal* or any part thereof may be situate, to appear before him either in person or by *vakil* within a reasonable time, not being less than one month from the date of such notification, at such place within the *mahal* as he may select for holding his office, and to attend him from day to day while he may continue within the *mahal*, with all *sanads* or other writings in virtue of which they may possess the lands, or under which the lands may have been, or may be claimed to be, held free of assessment or at fixed *jama*, together with any evidence they may desire to have taken in support of their claims.

may cause
lands to be
measured;

Third.—It shall likewise be competent to Collectors¹ and other officers aforesaid, when engaged in the settlement of any *mahal* under the rules of the Regulation above-mentioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue,² all lands, whether *malguzari* or *lakhirai*, belonging or adjoining to the village or villages in which such *mahal* or any part thereof may be situated.

to give public
notice one day
previous to
that on which
it is intended
to hold
proceedings.

Fourth.—When the Collector or other officer aforesaid¹ shall have commenced the settlement of any *mahal* in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed *jama*, and to receive their *sanads* and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall, on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an *istahar* stuck up in his office and in some place open to the public within the *mahal*.

Procedure on
failure of
persons to
attend
after notice.

Fifth.—If any person holding land free of assessment or at a fixed *jama* as aforesaid shall fail to attend either in person or by *vakil*, after notice being given in the manner above prescribed, the Collector¹ shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue² to resume the said lands, if they appear to be held on an invalid title.

Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regulation 2, 1819³, be entitled to stay the resumption and assessment of his lands under the rule contained in section 22 of that Regulation:

Provided, further, that the rule contained in clause *Second*, section 13, Regulation 2, 1819,³ shall be and be held applicable

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *ante*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

³ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

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to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided.

Sixth.—It shall be competent to Collectors¹ and other officers making settlements as aforesaid either to complete the investigation of the claims of persons holding land free of assessment or at a fixed *jama*, under the rules of the 15th and following sections of Regulation 2, 1819², with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period.

Collector may either complete investigation of claims or limit proceedings to certain points.

When any Collector¹ or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or, if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and, on the failure of any party to attend when so warned, the Collector¹ or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and, with the sanction of the Board³, to resume and assess the lands.

Seventh.—Collectors¹ or other officers who may proceed to investigate claims to *lakhirai* lands during the progress of a settlement shall follow the rules of the 15th and following sections of Regulation 2, 1819² in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

What provisions to regulate investigation of claims to *lakhiraj* lands.

Eighth.—No lands shall be resumed by a Collector¹, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue,³ save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board³ forthwith to direct the lands to be assessed, unless the same be held by village or *zamindari* servants in lieu of wages, which shall not be resumed without the sanction of Government:

Bar to resumption of lands without sanction.

Procedure by Board.

Provided also that in all cases wherein it may appear to the Board³ that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 86, *ante*, p. 248.

² The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

³ As to the exercise of functions of the Board of Revenue by other authorities, see reference cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

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duty to submit a report of the circumstances to the ¹[Local Government].

Regulations
applied to
investigation
by Collectors.

Ninth.—The provisions of clause *First* section 23, * * *² and section 28, Regulation 7, 1822³, shall be applicable to cases investigated by Collectors⁴ under the rules of Regulation 2, 1819⁵, or under the provisions of this Regulation.

Stamped
paper not
necessary.

Tenth.—It shall not be necessary to use stamped paper for the proceedings held or exhibits filed before the Revenue-authorities in cases originating with a Collector⁴ or other officer of Government claiming to assess land held free of assessment; but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers * * *⁶ to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them, by the process⁷ in force for the recovery of arrears of the Government revenue.

A ward of
charges to
witnesses.

Procedure for
persons
claiming
to hold
lands revenue-
free.

Eleventh.—Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the Collector⁸ or other officer to whom the same may be preferred all *sanads* and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent-free tenures, and of the grounds on which their claim is founded.

Investigation.

If the claim shall involve only the interests of Government, the Collector⁴ shall proceed without delay to investigate the case giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts.

If the claim shall be against any individual singly or jointly with Government, the Collector⁴ shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by *vakil* duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and, on the appearance of such defendant, the Collector,⁴ after allowing him to inspect and examine the claimant's petition of plaint, and the writings therein referred to, shall call upon him to deliver, within the

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

² The word and figures "section 26" have been omitted in consequence of the repeal made by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).

³ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

⁴ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *ante*, p. 248.

⁵ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁶ The words "under the provisions of the existing Regulations," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁷ See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), s. 7, in Vol. III of this Code.

⁸ But see s. 2 of the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), in Vol. II of this Code.

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(Sec. 5.)

period of seven days, a statement of the objections he may desire to urge against the claim.

In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors¹ to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim. Pleadings.

Collectors² shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving, however, as aforesaid, eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing:

Provided that, in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition or *ikrarnama* to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government or in the suit of an individual, and whether the proceedings of the Collector¹ shall be held under the provisions of Regulation 2, 1819,³ or under those of this or any other Regulation touching the matter, it shall be competent to the Collector¹ to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice. Summary proceedings.

Twelfth.—Whenever a Collector¹ or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government, and that no individual has *bond fide* possession thereof, it shall be competent to him, by a notification to be stuck up in his *cutcherry*, in the Zila Court and in the *cutcherry* of the *kanungo*, *Munsif* or *thanadar* to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue,⁴ not being less than six weeks from the date of such notification; and, on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation 2, 1819,³ for investigations relative to the liability of lands to be assessed as herein modified: Procedure as to land appearing to belong to Government and no person *bond fide* in possession.

Provided further that, if the Collector¹ or other officer aforesaid shall decide that none of the claimants have *bond fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue,⁴ the said lands shall be at the disposal of Government until the same shall be adjudged to be private property by a decree of Court on a regular suit:

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *ante*, p. 248.

² But see s. 2 of the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), in Vol. I. of this Code.

³ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

(Secs, 6-8.)

Provided also that all such suits, if preferred by one of the claimants before the Collector,¹ shall be dismissed, with costs, unless instituted within six weeks of the date on which the Board² may affirm the decision of that officer, and that the rule contained in clause Second, section 13, Regulation 2, 1819,³ shall be strictly applied to such suits: nor shall any such suit be admitted on the part of any person who may not have appeared before the Collector¹ pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's² decision:

Provided further that, if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

Power to vest Collector, deputed to hold local inquiry within *mahal*, with same powers in regard to lands held free of assessment in villages adjoining *mahal*.

6. It shall be competent to the "[Local Government], by [notification in the local official Gazette], to vest any Collector¹ or other officer who may be deputed to hold a local inquiry within the limits of any *mahal* with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such *mahal* or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors¹ making settlements in the manner prescribed by Regulation 7, 1822,⁴ and also from time to time to depute Collectors¹ or other officers aforesaid for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

Lands held free of assessment to be specified in proceedings.

7. The particulars of all lands held free of assessment within all villages and *mahals* of which the settlement may be made under the provisions of Regulation 7, 1822,⁴ shall be fully recorded in the proceedings of the Collector¹ or other officer making the settlement.

Saving of certain Regulations.

8. Nothing contained in Regulation 2, 1819,³ or in any other Regulation in force, shall affect, or be considered to affect, the provisions contained in section 10, Regulation 19, 1793,⁵ * * * * *, relative to grants illegally made subsequently to the dates specified in the said [section]; and

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

² As to the exercise of functions of the Board of Revenue by other Authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante* p. 171.

⁴ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

⁵ The words "an order in Council," in the original text, are to be read as if the words "notification in the local official Gazette" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

⁶ Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

⁷ The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 47.

⁸ The words and figures "section 11, Regulation 31, 1803, and in the corresponding enactments applicable to Benares and the Conquered Provinces," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁹ This word "section", in s. 8, was substituted for the words "rules respectively" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 747.

of 1825.]

(Sec. 9.)

in all cases in which it shall be established to the satisfaction of the Revenue-authorities that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the ¹[Local Government] nor adjudged to be exempted from payment of revenue under a regular decree of Court, it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a *zamindar*, *talukdar* or other *malguzar* with whom a permanent settlement has been concluded; nor shall the provisions of section 22, Regulation 2, 1819², apply to such cases.

9. (*Rules relative to the abolition of the sair duties, etc., applicable to what cesses.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

² The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

BENGAL REGULATION 11 OF 1825¹

(THE BENGAL ALLUVION AND DILUVION REGULATION,
1825)¹.

(26th May, 1826.)

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William² and the shifting of the sands which lie in the beds of those rivers, *chars* or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming *chars* or other lands gained in the manner above described.

The Court of *Sadar Diwāni Adālat*, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 613.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 280.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Pt. IV; and

the Tarai, in the Darjeeling District—*see ib.*

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

FURTHER ENACTMENTS.—For further enactments, in force in Bengal, relating to Alluvion and Diluvion, *see*—

the Bengal Alluvion and Diluvion Act, 1847 (9 of 1847), *post*, p. 327,

the Bengal Alluvial Land Settlement Act, 1858 (31 of 1858), *post*, p. 373, and

the Bengal Alluvion (Amendment) Act, 1868 (Ben. Act 4 of 1868), in Vol. II of this Code.

As to the application of the Bengal Tenancy Act, 1885 (8 of 1885), to alluvial land, *see* s. 180 of that Act, *post*, p. 592.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2-4.)

on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of *Sadar Diwani Adalat* in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William:—

claims and
disputes as
to alluvial
lands to be
decided
by usage
when clearly
recognised
and estab-
lished.

2. Whenever any clear and definite usage of *shikast paiwast* respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no
usage estab-
lished, claims
now decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Lands gained
by gradual
accession
from recess of
river or sea.

4. *First*.—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a *zamindar* or other superior landholder, or as a subordinate tenure by any description of under-tenant whatever:

Extent of
interest in
increment of
person in
possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation 2, 1819, or of any other Regulation in force.

¹ This includes the present Presidency of Fort William in Bengal and other territory.
² For saving the rights of under-tenants in alluvial land under this clause, see the Bengal Alluvial Land (Confirmation) Act, 1858 (21 of 1858), s. 2, post, p. 679.
³ See Bengal Land-revenue Assessment (Rescued Lands) Regulation, 1819. It is printed

(Sec. 4.)

¹Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a *khud-kásht raiyat*, holding a *maurási istimrári* tenure at a fixed rate of rent per *bigha*, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate and join it to another estate, without destroying the identity and preventing the recognition of the land so removed.

When river by sudden change of course intersects estate.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Third.—When a *char* or island² may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Chars thrown up in navigable river.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession.

Property therein when channel fordable.

Fourth.—In small and shallow rivers, the beds of which, with the *jalkar* right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or *char* that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Chars, etc., thrown up in small shallow rivers.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

¹This paragraph of section 4, clause *First*, is repealed by s. 2 (1) of the Bengal Tenancy Act, 1885 (8 of 1885), (*post*, p. 192), in the whole of the former Province of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts." The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notification (printed in Pt. V of Vol. IV of this Code) extending the Act of 1885 to the Jalpaiguri District, the repeal has taken effect in that district.

²The Revenue authorities are to take immediate possession of such islands, and to assess and settle the land—see the Bengal Alluvion (Amendment) Act, 1868 (Ben. Act 4 of 1868), s. 3, in Vol. II of this Code.

For further provisions as to such islands, see also *ib.*, ss. 4 to 8.

Lands gained by gradual accession to such islands are to be at the disposal of the Government—see *ib.*, s. 2.

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[Ben. Reg. 11 of 1825.]

(Sec. 5.)

guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroach-
ments on beds
of navigable
rivers and
other
obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent *Zila* • • ¹ Magistrates or any other officers of Government who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

¹ The words "and City", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 13 OF 1825¹

[THE BENGAL LAND-REVENUE SETTLEMENT (RESUMED KANUNGOS
AND REVENUE-FREE LANDS) REGULATION, 1825]¹.

(7th July, 1825.)

A Regulation [to maintain the settlement made for certain lands held exempt from the payment of revenue by kanungos in the Province of Bihar; and] to provide for the future settlement [of such lands, as well as] of the lands composing other resumed *lakhlraj* tenures, with the present occupants, when so directed by Government.

1. [Whereas it was enacted by section 5, Regulation 2 of 1816², that the revenue of lands held by kanungos generally in the Province of Bihar, in virtue of their offices, should be liable to resumption; and accordingly under that law, various resumptions of land so held took place, and the parties to whom the zamindari interest in the same appeared to belong were admitted to engage for the Government revenue; but, on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor-General in Council to be improper wholly to deprive the kanungos or their representatives of the advantages derived from such lands, and enjoyed by them for a long course of years; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the kanungos or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by clause second, section 8, Regulation 19 of 1793³, namely, the revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pargana of a similar

Preamble.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see *post*, p. 729.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 284.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Ben. Reg. 2 of 1816 was repealed by the Repealing Act, 1868 (8 of 1868).

³ The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1798. Section 8 is printed *ante*, p. 64.

(Sec. 2.)

description may be assessed, securing to the proprietors of the soil such *malikana* or other allowance as they might have received prior to the resumption of the official *minha* tenure;

And whereas the existing laws relative to the settlement of resumed *lakhiraj* tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the Courts of Judicature of the arrangement above described, in order that the *kanungo minhadars* may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents and produce heretofore possessed by them;]

And whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to *kanungos* and their official tenures in other parts of the country;

And whereas it appears to be generally expedient to make a distinct provision for securing to the holders of *lakhiraj* lands resumed by the officers of Government, and assessed on the principle prescribed in clause Second, section 8, Regulation 19, 1793¹, the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue the persons who have heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment;

The following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William² from the date of the promulgation of this Regulation.

2. In case of *lakhiraj* tenures resumed under the provisions of Regulation * * * ³5, 1816⁴, or any other Regulation in force relative to lands held by *kanungos* by virtue of their offices, where the *minha* or *lakhiraj* tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the ⁵[Local Government] by instruction to the Revenue Board⁶ or other authority empowered to make the resumption, to continue the *minhadars* and their heirs in possession and management of such lands, subject to such assessment as ⁷[it] shall judge it proper to direct; and the parties claiming the *zamindari* interest or other proprietary right in

Power to continue *minhadars* and their heirs in possession of resumed lands, heretofore held as *lakhiraj* by *kanungos*.

¹The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. Section 8 is printed *ante*, p. 54.

²This includes the present Presidency of Fort William in Bengal and other territory.

³The words and figures "4, 1808, Regulations 2 and", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴The Bengal Kanungos Regulation, 1816. It is printed *ante*, p. 135.

⁵The words "Governor-General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

⁶As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(I), *ante*, p. 210.

⁷The word "he," in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act 1903 (1 of 1903), Sch. II, *post*, p. 747.

(Secs. 3, 4.)

such *mahals* shall not be entitled to any land-rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment.

Persons, consequently, claiming to be *maliks* of the said lands, who, during the continuance of the *lakhiraj* tenure, had not possession of the same, whether they received a *malikana* allowance or otherwise, shall not disturb the possession of the *minhadars* or their heirs and representatives, in any case wherein the [Local Government] may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs:

Provided, however, that in all cases of the nature above-mentioned, wherein the *zamindar* or other proprietor of the land may have received *malikana* or other proprietary due during the existence of the *lakhiraj* tenure, he shall continue to receive the same, notwithstanding the resumption of the *lakhiraj*, in like manner as if such resumption had not taken place.

3. The tenures of the *minhadars* which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation, or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable; but, should they escheat to Government, the parties possessing a *zamindari* interest or other proprietary right in the lands will be admitted to engage for the revenue subject to a fresh assessment to be adjusted on the actual assets under the general [law].

Tenures of *minhadars* so situated declared hereditary and transferable.

4. The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of *lakhiraj* resumption under the general Regulations in force, which may come within the favourable rule of assessment contained in the second clause of section 8, Regulation 19, 1793³, in the Provinces of Bengal, [Bihar and Orissa] • • • • •; it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the *lakhiraj* tenures made subject to assessment by [the Regulation] above cited, and whom it appeared equitable, in

Foregoing sections applied to certain *lakhiraj* resumptions

¹The words "Governor-General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1903), Sch. II, post, p. 747.

²The word "law," in s. 3, was substituted for the word "Regulations", by the Repealing and Amending Act, 1908 (1 of 1903), Sch. II—see post, p. 747.

³The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. Section 8 is printed ante, p. 54.

⁴The words and figures "or the second clause of section 8, Regulation 41, 1796, in the Province of Benares," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁵These words "the Regulation", in s. 4, were substituted for the words "the Regulations" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 337.

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KANUNGOS AND REVENUE-FREE LANDS) REGULATION.

[Ben. Reg. 13 of 1825.]

(Sec. 5.)

Modification
of enactments
relative to
settlement of
resumed jagir,
altamgha,
madadmash,
aima or other
badshahi
grants, and
to resumption
of lakhiraj
tenures.

consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent produce.

5. In modification of the existing rules contained in ¹[Regulation] 37. 1793,² * * *³ or any other Regulation in force, relative to the settlement of resumed *jagir*, *altamgha*, *madadmash*, *aima* and other grants of land termed *badshahi* or royal; and generally in qualification and explanation of all the rules in force relative to the resumption of *lakhiraj* tenures, and the future assessment of lands composing the same, it is hereby further declared that whenever such tenures may be pronounced invalid or extinct by a Revenue Board⁴ or other authority empowered to investigate the *lakhiraj* title in such tenures, under the provisions of Regulation 2, 1819⁵, or of any other Regulation in force, it shall be competent to the ⁶[Local Government], on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the *zamindar*, *talukdar* or other *malik* of the land, on his engagement for the future assessment on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable, and be maintained by the Courts of Judicature accordingly.

¹ This word "Regulation," in s. 5, was substituted for the word "Regulations" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 337.

² The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 63.

³ The figures and word "42, 1795, and 36, 1803," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

⁵ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁶ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1) of 1903), Sch. II, *post*, p. 647.

BENGAL REGULATION 14 OF 1825

(THE BENGAL REVENUE-FREE LANDS REGULATION, 1825).¹

(14th July, 1825)

A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of *lakhiraj* tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government

1. Whereas doubts have arisen as to the extent of the authority possessed by the Revenue-authorities subordinate to the Governor General in Council in regard to the confirmation of *lakhiraj* tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government;

Preamble.

And whereas it is enacted by clause *first*, section 26, Regulation 2, 1819,² that in suits instituted in the *Zila* Courts to contest the decisions passed by the Revenue Boards under the provisions of that Regulation, * * * an appeal shall be received by the *Sadar Diwani Adalat* * * * and it appears to be expedient that * * * cases wherein the decision of the Court may³ be opposed to the judgment of the Board of Revenue,⁴ or other authority exercising the powers of that Board, * * * should be open to a regular appeal,

the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations 19⁵ and

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 729.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 288.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

³ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁴ The words "on special grounds only," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁵ The words "the above restriction should not apply to," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁶ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

⁷ The words "but that such cases," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁸ The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 47.

(Sec. 2.)

37,¹ 1793, * * * of such parts of² [Regulation] 12³, 1805, as refer to *lakhiraj* lands, and of Regulation 2, 1819,⁴ to be in force from the date of their promulgation throughout the Provinces immediately subject to the Presidency of Fort William⁵.

Lakhiraj
tenures under
what circum-
stances alone
valid.

2. It is hereby declared and enacted that the power of granting *lakhiraj* tenures, namely, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order or decision granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the⁷ [Local Government] or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards⁸ acting in a judicial capacity, under the rules of Regulation 8, 1811, whilst that Regulation (rescinded by section 2 of Regulation 2, 1819,⁵) was in force; and subsequently under the rules of Regulation 2, 1819,⁶ or any other Regulation expressly empowering the Revenue Boards,⁸ after full investigation of claims to exemption from assessment under the general rules applicable to *lakhiraj* tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry:

Provided also that no resolution or order passed by * * * the Board of Revenue⁹ or other authority exercising the powers of that Board, whereby the right of Government to assess any *lakhiraj* lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue-authorities from proceeding for

¹ The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 53.

² The words and figures "Regulations 41 and 42, 1795, Regulations 31 and 36, 1803," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ This word "Regulation" was substituted for the words and figures "Regulations 8 and" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 747.

⁴ The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 97.

⁵ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁶ This includes the present Presidency of Fort William in Bengal and other territory.

⁷ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 747.

⁸ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

⁹ The words "the Lieutenant-Governor and the Board of Commissioners, in the Ceded and Conquered Provinces," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1825.]

(Sec. 3.)

the recovery of public dues under the provisions of Regulation 2, 1819,¹ or any other rules in force relative to the resumption of *lakhiraj* tenures held under invalid grants.

3. First.—The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the Provinces subordinate to this Presidency,² previously to the acquisition of the country by the British Government.

Trial of
validity of
grants.

Second.—*Lakhiraj* tenures of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same, and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country, namely, the 12th August, 1763, if the tenure be in Bengal, [*Bihar or Orissa (excepting Cuttack)*]; the 14th October, 1719, if the tenure be in [*Cuttack, including*] Pataspur or its dependencies; • • • • •³.

Lakhiraj
tenures, of
which
uninterrupted
possession has
been held,
declared valid,
etc.

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a *jagirdar* or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure.

In all such cases the parcels of the land so held shall follow the condition of the principal tenure, and, if that be resumable, will consequently be liable to resumption.

Third.—The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the *lakhiraj* tenure; the general principle being that the ruling Power is entitled to a certain proportion of the produce of every *bigha* of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles:

Proof of title
to hold or
recover
lakhiraj
tenure to rest
on claimants.

Fourth.—Provided also that, although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature, or unless the right of inheritance therein shall have been admitted by the "[Local Government]" on a reference made to Government according to the rules in force applicable to such cases. • • •

One or more
successions
before period
specified not
to establish
title of
inheritance.

¹The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 171.

²This includes the present Presidency of Fort William in Bengal and other territory.

³Portion repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁴The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor;—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 747.

(Sec. 3.)

Potentates
and
authorities
recognizable
by Courts, etc.

Fifth.—The Courts of Judicature and Revenue-authorities shall not recognise any potentate or person as having been vested with the supreme power within any part of the Provinces subordinate to this Presidency,¹ save and except the Kings of Delhi, the *Subadars* of Bengal, Bihar and Orissa, and the several authorities specified in . . .²

¹[Regulation] 12, 1805³. . .
If in any case grants shall be produced purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court or other authority before whom the case may be pending shall, before passing any decision thereupon, refer the point to the ⁴[Local Government] and be guided by ⁵[its] determination.

Conditions
 requisite
to establish
 validity of
 grants by
 such
 potentates,
 etc.

Sixth.—To the validity of grants made or confirmed by the Kings of Delhi or by any of the Rulers aforesaid, it is and shall be held to be necessary—

1st, that they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate:

2nd, that the grantee actually and *bond fide* obtained possession of the land granted within the said period:

3rd, that the grant was not subsequently resumed by the officers or the orders of the Government for the time being previously to the acquisition of the country by the British Government, or, if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the ⁶[Local Government].

Periods at
 which
 provinces
 subordinate to
 Presidency of
 Fort William
 were acquired
 by British
 Government.

Seventh.—The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, namely, for Bengal, [*Bihar and Orissa (excepting Cuttack)*], the 12th August 1765; * * *
for [*the Province of Cuttack*], Pataspur and its dependencies, the 14th October, 1803 * * *.

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² The words and figures "Regulation 42, 1795, Regulation 36, 1803, and", which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ This word "Regulation" was substituted for the words and figures "Regulations 8 and" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 747.

⁴ The Cuttack Land-revenue Regulation, 1805. It is printed ante, p. 97.

⁵ Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁶ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, post, p. 747.

⁷ The word "his", in the original text, is to be read as if the word "its" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, post, p. 747.

of 1825.]

(Secs. 4-6.)

Eighth.—To the validity of grants not made or confirmed by the Supreme Power (excepting tenures of long possession described in the second clause of this section), it shall be held to be necessary—

Conditions necessary to validity of grants not made or confirmed by Supreme Power.

1st, that they were made or confirmed by some authority which the ¹[Local Government] shall have expressly declared competent to make or confirm the same;

2nd, that the grantee actually and *bond fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Ninth.—Provided also that in cases in which any *lakhirai* tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so shall, in all cases wherein it may be necessary to determine this question, rest with the ¹[Local Government].

Decision of questions regarding *lakhirai* tenures, resumed previously to acquisition of country by Government.

Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the Supreme Power, or the legal effect of resumption by any such officer which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature or other authorities making the investigation to the ¹[Local Government] for determination unless the powers and competence of the officer in question shall have been previously determined by Government.

4. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation 19, 1793,¹ * * * and Regulation 12, 1805,⁴ relative to lands not exceeding ten *bighas* of which the produce is *bond fide* appropriated to religious or charitable uses.

Saving of lands devoted to religious or charitable uses.

5. (*Revision of decisions passed before commencement of Regulation.*) *Rep. by the Repealing Act, 1873 (12 of 1873).*

6. In modification of the rules contained in section 26, Regulation 2, 1819⁵, it is hereby enacted that in cases wherein a *Zila* Court shall annul or alter a judgment passed by the

Modification of Regulation 2, 1819, section 26.

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, *post*, p. 747.

² The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798. It is printed *ante*, p. 47.

³ The words and figures "Regulation 41, 1796, Regulation 81, 1808," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁴ The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 97.

⁵ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. Section 26 is printed *ante*, p. 182.

[Ben. Reg. 14 of 1825.]

(Sec. 6.)

Board of Revenue¹ or other authority exercising the powers of that Board under the provisions of the above-mentioned Regulation, a regular appeal shall lie * * * .²

The provisions of the above-mentioned section shall however still be applicable to cases in which the *Zila* * * * Courts may maintain the decisions of the '[Board of Revenue]¹ or other authorities exercising the powers of '[that Board].

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

² Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

³ The words "or Provincial", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "Board of Revenue" and "that Board", were substituted for the words "Revenue Boards" and "these Boards," respectively, by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 748.

For saving of appeals under s. 6, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (4), *post*, p. 301.

BENGAL REGULATION 3 OF 1827

(THE BENGAL CORRUPTION AND EXTORTION REGULATION,
1827).¹

(1st November, 1827.)

A Regulation for modifying and amending the rules in force relative to the law officers and ministerial Native officers of the Courts of Judicature, who may be guilty of corruption or extortion.

1 to 4. (*Preamble; amendments; no fine to be awarded in Civil Court for corruption or extortion; criminal prosecution not to depend on civil action.*) Rep. by the Repealing Act, 1874 (16 of 1874).

5. From and after the date of this Regulation, it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by ²[the Court] shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court, * * *

Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted

6. (*Amount of embezzlement to be paid in first instance from public treasury.*) Rep. by the Repealing Act, 1874 (16 of 1874).

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 643.

LOCAL EXTENT.—This Regulation (s. 5) has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² These words "the Court" were substituted for the words "a Court of Circuit or the Nizamat Adalat" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post* p. 748.

³ The words "on the stamped paper prescribed for miscellaneous petitions," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

BENGAL REGULATION 5 OF 1827

(THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION,
1827).¹

(27th December, 1827.)

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

1. Whereas it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor-General in Council, to be in force, from the date of their promulgation, throughout the territories immediately subject to the Presidency of Fort William².

Preamble.

2. The rules contained in sections 5 and 6, Regulation 5, 1799³, * * * regarding the administration and management of estates under orders of the *Zila* * * * Courts, are hereby declared subject to the following modifications.

Modification of Regulations regarding management of estates under attachment.

3. Whenever the *Zila* * * * Courts may deem it just and proper, under the provisions of the [Regulation] above mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector⁷ of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof:

Issue of precept for holding estates under attachment and for appointing managers.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 648.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ The Bengal Wills and Intestacy Regulation, 1799. It is printed *ante*, p. 77.

⁴ The words and figures "and clauses 5 and 6, section 16, Regulation 3, 1808," and "and sections 26 and 27, Regulation 5, 1812, and clause *Third*, section 5, Regulation 6, 1813," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), and the Repealing Act, 1874 (16 of 1874), respectively, are omitted.

⁵ The words "and City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁶ This word "Regulation," in s. 3, was substituted for the words "several Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 748.

⁷ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

[Ben. Reg. 5 of 1827.]

(Sec. 4.)

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector¹ of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue,² and the Board² will either confirm the manager chosen, or order the Collector¹ to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to
State property
included in
attachment.

4. The precept of the *Zila* * * ³ Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation 1822 (7 of 1822), s. 35, *ante*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

BENGAL REGULATION 3 OF 1828

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1828].

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BENGAL REGULATION 3 OF 1828

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS)
REGULATION, 1828].¹

(12th June, 1828.)

**A Regulation for . . . more effectually securing the
realization of the public dues.**

1. . . . it appears to be expedient . . . to Preamble.
provide that all successions to the possession of land or rent,
free of assessment, whether by sale, gift or inheritance, shall
be regularly reported to the Revenue-authorities;

it has likewise appeared to be expedient and proper to make
provision for the immediate settlement of the limits of the
Sundarbans, as ascertained by careful local inquiry, conducted
by the Commissioner specially appointed to the duty, and the
surveyors under his authority; and also to declare the intent
and meaning of certain parts of the existing Regulations in
regard to which doubts have arisen;

the following rules have accordingly been enacted, to be
in force from the date of their promulgation throughout the
Provinces immediately subordinate to the Presidency of Fort
William.⁴

2 to 8. (*Special Commissioners for final determination of
cases investigated under the Bengal Land-revenue Assessment
(Resumed Lands) Regulation, 1819 (2 of 1819), ss. 5 to 20, and
the Bengal Land-revenue Settlement Regulation, 1825 (9 of
1825), s. 5, and for determination of suits brought to contest
the demand of Revenue-officers.*) Rep. by the Repealing
and Amending Act, 1903 (1 of 1903).

9. (*Oaths to be taken by special Commissioners.*) Rep. by
the Repealing Act, 1873 (12 of 1873).

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 730.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (15 of 1874), section 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

² Words in the title which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ Portions of s. 1 which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ This includes the present Presidency of Fort William in Bengal and . . .

(Sec. 10.)

Regulation
2, 1819,
modified and
extended.

Decisions of
Board of
Revenue
under section
21 of Regula-
tion 2, 1819,
to be exe-
cuted not-
withstanding
suit to con-
test them.

Consequence
of declining
to pay assess-
ment.

Trial of suits
to contest
Board's deci-
sion in cases
in which
jurisdiction
of Courts is
not barred.

10. First.—The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation 2, 1819.¹

Second.—All decisions which have been or may be passed by the ²[Board] of Revenue³ under the rules in section 21, Regulation 2, 1819,⁴ declaring the liability to assessment of lands * * * shall be carried into immediate execution by the Collectors⁵ or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed shall have sued or shall sue to contest the Board's³ decision in one of the established Courts of Justice * * *⁶; and such parties shall not be permitted to retain possession of the lands unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof.

And if any person against whom the Board³ may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue as the Collector⁵, under the orders of the Board³, may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six *per cent. per annum*.

Third.—All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation 2, 1819,¹ and section 5, Regulation 9, 1825,⁷ to contest decisions of the ²[Board] of Revenue³ shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases, than the objections of the appellant to the decision of the Board³ and the reply to those objections on the part of the Revenue-authorities;

the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's³ proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be

¹ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 271.

² This word "Board" was substituted for "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 748.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note 2 to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

⁴ The words "whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁵ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

⁶ The words "or to the Commissioner appointed under this Regulation," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁷ The Bengal Land-revenue Settlement Regulation, 1825. It is printed *ante*, p. 269.

of 1828.]

(Sec. 11.)

competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector¹ or the Board², and was then rejected on insufficient grounds or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

Fourth.—Provided, however, and it is hereby enacted, that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue-authorities to . . .³ the Court of *Sadar Diwani Adalat*, from decisions passed in the first instance in the *Zil* . . .⁴ Courts . . .⁵ in cases of the nature described and specially provided for in section 6, Regulation 14, 1825⁶, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation 2, 1819⁷.

Proviso as to admission of appeals from inferior to superior Courts.

Fifth.—Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of Revenue⁸ shall be kept on a file or register distinct from that on which other suits before those Courts are entered . . .⁹

Appeals from Board's decisions to be kept distinct.

11. First. (*Provisions for securing information of transfers of land held free of assessment.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Second.—Persons succeeding to the possession of any lands held free of assessment or held on a *mukarrari jama*, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector¹ or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue-officers.

Persons succeeding to possession of lands revenue-free or on *mukarrari jama* to report to Collector.

Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue authorities, until such party shall have paid to Government a fine equal to one year's rent; and, if the revenue derivable from the

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "the Provincial Courts or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴ The words "or the Provincial," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The word "respectively," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

⁶ The Bengal Revenue-free Lands Regulation, 1825. It is printed *ante*, p. 287.

⁷ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

⁸ The remainder of s. 10 (5), which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

(Sec. 12.)

land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve *per cent. per annum*: provided also that the said rent and collections shall be estimated according to the assessment demandable from the *rai-yats* at the time of attachment.

Investigation
of claims to
recover
possession of
attached
lands.

Third.—Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a *mukarrari jama*, shall be investigated and determined by the Collector¹ under the provisions of Regulation 2, 1819², as modified by the present Regulation and by those which have been immediately enacted.

Unregistered
tenures liable
to resumption,
unless
declared
hereditary by
decree of
competent
authority.

12. All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations 19³ and 37⁴, 1793, * * *⁵ and 12, 1805⁶, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government⁶.

And Collectors¹ and other officers exercising the powers of Collector shall accordingly proceed to assess, and, if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding:

Provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. *Jagirs* consequently shall not be held to be life-tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual if the grants

¹ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *ante*, p. 248.

² The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

³ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 47.

⁴ The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 68.

⁵ The words and figures "Regulations 41 and 42, 1795, Regulations 31 and 36, 1803, Regulation 8" which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁶ The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 97.

of 1928.]

(Sec. 13.)

under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

13. First.—The uninhabited tract known by the name of the Sundarbans has ever been, and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to *zamindars*, or included in any way in the arrangements of the perpetual settlement, it shall therefore be competent to the ¹[Local Government] to make, as heretofore, grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as ²[it] may deem proper and expedient.

Sundarbans declared property of State, and Government competent to make grants and to take measures for its clearance.

All parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarban *jungle* so granted or assigned without question or opposition, and all public officers shall aid and assist the same:

Grantees' right.

Provided also that if any *zamindar*, *talukdar* or other *sadar malguzar* or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned shall sue in any Court of *Adalat* * * * to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased or assigned, within the limit of the unoccupied *jungle* so named and described, the suit shall be dismissed with costs:

Suit to contest such right.

Provided, however, that if any *zamindar*, *talukdar* or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood or obtaining other *jungle* products of the tract, or by virtue of any other similar privilege or advantage which may have been recognized as part of the assets on which the assessed revenue of his *zamindari*, *talukdari* or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of *sair* revenue or other similar arrangement, such *zamindar*, *talukdar* or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements

Compensation to zamindar claiming valuable interest.

¹ The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post p. 748.

² The word "he," in the original text, is to be read as if the word "it" were substituted therefor—see the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, post, p. 748.

* The words "or before a special Commissioner under this Regulation," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

304 THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS)
REGULATION, 1828.

[Ben. Reg. 3 of 1828.]

(Sec. 13.)

adopted for the cultivation of the Sundarbans; the same being duly established after an investigation conducted under the rules of Regulation 2, 1819¹, as modified by this Regulation.

Second.—(Demarcation of boundaries of the Sundarban jungle.) Rep. by the Sundarbans Act, 1905 (Ben. Act 1 of 1905).

¹ The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 171.

BENGAL REGULATION 4 OF 1828

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1828).¹

(7th August, 1828.)

¹ A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822².

1. (*Preamble.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

2. First, Second, Third.—(Collectors making or revising settlements empowered to try all questions of property in or possession of lands.) Rep. by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 4.

Fourth.—To prevent doubts as to the period for which Collectors³ and other officers⁴ [vested with the powers of a Collector] are to possess the powers vested in them . . . by Regulation 7, 1822⁵, in regard to any *mahals* of which the settlement may have been, or may be about to be made or revised, it is hereby declared and enacted that they shall be held and considered to be engaged in making and revising such settlement from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands or for making a census of the inhabitants of any village or portion of a village belonging to such *mahal*, of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government.

During the aforesaid period . . . Magistrates and Joint Magistrates . . . shall be guided, in respect to such

Period during which Collectors are to be considered to be engaged in making and revising settlements.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I.—see *post*, p. 730.

LOCAL EXTENT.—Section 2 (4) of this Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458) to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

Section 2 (4) has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV; and the Western Hills and the Tarai, in the Darjeeling District—see *ib.*

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 790.

² This title is obsolete, in consequence of the repeal of clause *First* or section 2 of the Regulation.

³ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 317.

⁴ As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 85, *ante*, p. 248.

⁵ These words in square brackets were substituted for the word "aforesaid," by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II.—see *post*, p. 748.

⁶ The words "by this Regulation and," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁷ The words "the powers vested in," which were repealed by the Repealing Act, 1874 (15 of 1874), are omitted.

⁸ The words and figures "by Regulation 15, 1824, shall be suspended in regard to all *mahals* of which the settlement may be so in progress, and the said officers," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

306 THE BENGAL LAND-REVENUE SETTLEMENT REGULATION,
1828.

[Ben. Reg. 4 of 1828.]

(Sec. 2.)

mahals, by the provisions of clause *Second*, section 34, Regulation 7, 1822¹, by which they were required to refer to the Revenue-authorities disputes regarding lands, premises, crops, watercourses and the like.

And all police-officers are required to give immediate and efficient support to Collectors² and other Revenue-officers in the execution of their duties.

¹ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

² As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 218.

BENGAL REGULATION 1 OF 1829

(THE BENGAL REVENUE COMMISSIONERS REGULATION, 1829)¹.

(1st January, 1829.)

A Regulation for constituting Commissioners of Revenue and Circuit

1. The system in operation for superintending the magistracy and the police, and for controlling and directing the executive Revenue-officers, who in several cases are also Magistrates, has been found to be defective. Preamble.

The Provincial Courts of Appeal and Circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have, in many cases, failed to afford that prompt administration of justice which it is the duty of Government to secure for the people.

The gaol-deliveries have been, in some instances, delayed beyond the term prescribed by law, [*especially in the division of Bareilly, which comprises thirteen stations at which gaol-deliveries have to be held, beside the joint magistracies of Bida and Sirpurá,*] and a great arrear of cases under appeal has accrued in all the Courts, to the manifest injury of many individuals and to the encouragement of litigation and crime.

The Judges of Circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge, to enable them adequately to control the police or protect the people.

The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement and for the judicial decision of many other important cases, as the general guardians of the fiscal interests of the State, as directors and superintendents over

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—*see post*, p. 780.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see* the concluding paragraph of s. 1, *post*, p. 808.

It has been declared, by the Law Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 8, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Pt. IV; and the Western Hills, the Tarai and the Dumson Sub-division, in the Darjeeling District—*see ib.*

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, p. 780.

² The rest of the title was repealed by the Repealing and Amending Act, 1908 (1 of 1908), and is omitted.

For the correction of the above defects, it has appeared to be expedient and necessary to place the magistracy and police, and the Collectors and other executive Revenue-officers, under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said Commissioners the powers * * *¹ that belong to the Boards of Revenue, to be exercised, with the modifications hereinafter provided, * * *¹ under the instructions and control of a Sadar or Chief Board of Revenue. * * *¹

**Appointment
of Commis-
sioners of
Revenue and
Circuit for
divisions
specified.**

Provided, however, that it shall be competent to the Governor General in Council, by an order in Council, to transfer any district or districts from one division to another³, and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient; due notice of any such arrangement being given by public proclamation.

							* 1
[10th Division, to contain the districts under the Magistrates, Collectors, Joint-Magis- trates and Sub-Collectors of]						Saran, Shahabad and Tirhut.	
11th ditto ditto of						{ Patna, Bihar and Rangarh.]	
12th ditto ditto of						{ [Bhagalpur, Monghyr,] Malda [and Purnea.]	
13th ditto ditto of						{ Dinajpur, Rangpur, Rajshahi and Bogra.	
14th ditto ditto of						{ Murshidabad, Birbhūm and Nadia.	

¹ Portions repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² This includes the present Presidency of Fort William in Bengal and other territory.

* This includes the present Presidency of Fort William in Bengal and other territory.

of 1829.]

(Secs. 3, 4.)

15th Division, to contain the districts under the Magistrates, Collectors, Joint-Magistrates and Sub-Collectors of . . .	{ Dacca, ¹ Jalálpur, ¹ Tippera and Mymensingh. Chittagong and Noakhali } • • •
16th ditto ditto of . . .	{ Backergunge, Jessore, Suburbs of Calcutta, ⁴ 24-Parganas and Barasat. [Cutlack, Khurda, Balasore.] Midnapore and Nagwán, in- cluding Hijli. Burdwan, Jungle Maháls and Hooghly.
18th ditto ditto of . . .	
19th ditto ditto of . . .	
20th ditto ditto of . . .	

3. (*Commissioners invested with powers of Judges of Circuit and Courts of Circuit collectively; period of holding sessions, etc.*) Rep. by the Repealing Act, 1874 (16 of 1874).

4. *First*.—The said Commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a *Sadar* or Head Board⁵, to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor General in Council, and to such restrictions and provisions as the Governor General in Council or the said *Sadar* Board⁵, with his authority or sanction, may prescribe.

Commissioners to have powers of Boards of Revenue and Courts of Wards.

Second.—In regard to the form of their proceedings in the Revenue Department, the Commissioners and the *Sadar* Board⁵ shall be guided by such orders as the Governor General in Council may from time to time issue, and it shall be competent

Sadar Board and Commissioners how guided as to form of their revenue-proceedings.

¹ The City of Dacca and the *Zila* of Dacca Jalálpur were amalgamated as the district of Dacca by Ben Reg. 5 of 1833, which was repealed by the Laws Local Extent Act, 1874 (15 of 1874), printed in General Acts, 1868-78, Ed. 1909, p. 457.

² The words "To be placed under the officer appointed to control the affairs of Arakan," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ Portion repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁴ The suburbs of Calcutta, here referred to, were amalgamated with the 24-Parganas District by Ben Reg. 8 of 1832, which was repealed by the Laws Local Extent Act, 1874 (15 of 1874), printed in General Acts, 1868-78, Ed. 1909, p. 457.

⁵ This Board was afterwards styled "the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal"—see the Bengal Board of Revenue Act, 1850 (44 of 1850), s. 3, *post*, p. 337.

As to the exercise of the functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

(Secs. 5-10.)

to the Governor General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit, shall reside, at such places within the territories belonging to this Presidency as may from time to time be deemed expedient.

When tract
within juris-
diction of
Magistrate of
one division
is under Col-
lector of
another
division.

Third.—Provided also that, in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division may be under the authority of a Collector or Deputy Collector attached to another division, the Governor General in Council shall determine, by an order in Council, the nature and extent of the powers to be exercised in regard to the revenue affairs of such tract by the Commissioners respectively with whose divisions it may be so jointly connected.

5. (*Abolition of powers of certain Provincial Courts of Appeal.*) Rep. by the Repealing Act, 1874 (16 of 1874).

6. (*Repeal of inconsistent provisions.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

7, 8. (*Offices of Superintendents of Police abolished; Commissioners to perform duties of Superintendents; tender of pardon to accomplices; Powers of Commissioner of Cuttack and Midnapore.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

9. *First.*—(*Powers of Commissioners of Arakan and Assam.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Second.—(*Conferment of powers on the Commissioner for the districts of the Northern Doab, etc.*) Rep. (except in certain Scheduled areas) by the North-Western Provinces Land-revenue Act, 1873 (19 of 1873). (*Conferment of powers on the Resident at Delhi.*) Rep. in part by Ben. Reg. 6 of 1831, s. 8; residue rep. by Ben. Reg. 10 of 1831, s. 4.

10. (*Abolition of office of mufassal special Commissioner; modification of practice under Regs. 1 of 1821 and 1 of 1823.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

BENGAL REGULATION 17 OF 1829

(THE BENGAL SATI REGULATION, 1829).¹

(4th December, 1829.)

A Regulation for declaring the practice of sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.

1. The practice of *sati* or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves and in their eyes unlawful and wicked.

Preamble

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William².

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 613.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—*see the concluding paragraph of s. 1*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri and the Western Duars, in the Jalpaiguri District—*see Vol. IV, Pt. IV*.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

FURTHER ENACTMENTS AS TO HINDU WIDOWS.—As to re-marriage, *see the Hindu Widows Re-marriage Act, 1856* (15 of 1856), in General Acts, 1834-67, Ed. 1909, p. 121.

As to non-forfeiture of rights or property by loss of estate, *see the Caste Disabilities Removal Act, 1850* (21 of 1850), *ib.*, p. 79.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2, 3.)

Sati declared
illegal and
punishable.

Zamindars,
etc., respon-
sible for
immediate
communica-
tion to
police of
intended
sacrifice.

Penalty in
case of
neglect.

Police how
to act on
receiving
intelligence
of intended
sacrifice.

How to
act when
intelligence
of sacrifice
does not
reach them
until after
it has taken
place.

2. The practice of *sati* or burning or burying alive the widows of Hindus is hereby declared illegal and punishable by the Criminal Courts.

3. First.—All *zamindars*, *talukdars* or other proprietors of land, whether *malguzari* or *lakhiraj*, all *sadar* farmers and under-renters of land of every description, all dependent *talukdars*, all *naibs* and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards¹ and all *mandals* or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any *zamindar* or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police *daroga* shall either repair in person to the spot, or depute his *muharrir* or *jamadar*, accompanied by one or more *barkandazes* of the Hindu religion, and it shall be the duty of the police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of the police-officers being unable to apprehend them they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

Third.—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the

¹ The law relating to the Court of Wards in Bengal is the Court of Wards Act, 1879 (Ben. Act 9 of 1879), printed in Vol. II of this Code.

of 1829.]

(Secs. 4, 5.)

Magistrate or Joint Magistrate to whom they may be subordinate.

4, 5. (*Trial of persons concerned in the sacrifice; sentence of death by Court of Nizamat Adalat.*) Rep. by Act 17 of 1862.

BENGAL REGULATION 5 OF 1830

(THE BENGAL INDIGO CONTRACTS REGULATION, 1830) .

(9th June, 1830.)

A Regulation relating to the cultivation and delivery of indigo-plant.

1. 2 Preamble

whereas it is desirable in certain cases to afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.¹

2. (*Criminal prosecution of persons inducing raiyats to break contract.*) Rep. by the Repealing Act, 1868 (S of 1868).

3. (*Cultivators failing to fulfil engagements liable to imprisonment.*) Rep. by Act 16 of 1835.

4. (*Punishment of persons damaging indigo-plant.*) Rep. by Act 3 of 1857.

5. *First*.—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court;

Procedure by persons wishing to be released from their engagements

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 731.

LOCAL EXTENT.—This Regulation was enacted for the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

Sections 1 and 5 of the Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The same sections have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Part IV.

The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Words in the title and preamble which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ This includes the present Presidency of Fort William in Bengal and other territory.

[**Ben. Reg. 5 of 1830.**]

(*Sec. 5.*)

the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Procedure if
proprietor
objects to
receive
balance

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

BENGAL REGULATION 9 OF 1833

[THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833].¹

(9th September, 1833.)

A Regulation to modify certain portions of Regulation 7 of 1822²

' to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in settlements under the above ' [Regulation]; for enforcing the production of the village-accounts; for the more extensive employment of native agency in the Revenue Department; and to declare the intent of section 5, Regulation 7 of 1822,³ touching claims to *malikana*.

1. Experience having demonstrated the expediency of⁴ modifying certain enactments of Regulation 7 of 1822² * * *⁵, also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under⁶ [that Regulation] and of declaring the intent of the rules regarding *malikana* promulgated by section 5, Regulation 7 of 1822²; it having been found expedient likewise that measures should be adopted for enforcing the production of the village-accounts, and for rendering them accessible to all persons concerned having occasion to examine them; also that natives of respectability should be employed in more important trusts connected with the revenue-administration; the following provisions have been enacted, to be in force from the date of their promulgation.

2. (*Repeal of provisions of Regulation 7, 1822, as to mode of determining jama to be demanded from mahals.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3. (*Repeal of provisions of Regulation 7 of 1822 as to investigation of claims simultaneously with determination of Government demand.*) *Rep. by the Repealing and Amending Act 1903 (1 of 1903).*

The Governor General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 731.

LOCAL EXTENT.—The application of the Regulation is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

³ The words and figures "and Regulation 4 of 1828," in the title and s. 1, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ This word "Regulation", in the title, was substituted for the word "Regulations" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 748.

⁵ The words "that Regulation", in s. 1, were substituted for the words "those Regulations" by the Repealing and Amending Act, 1903 (1 of 1903) Sch. II—*see post*, p. 748.

(Secs. 4-11.)

4. (*Repeal of parts of the Bengal Land-revenue Settlement Regulation, 1828 (4 of 1828).*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

When Collector making settlements considers arbitration necessary, he may fix period for production of award

5. In addition to section 33, Regulation 7 of 1822¹ it is hereby enacted that whenever any judicial question may be depending before a Collector² or other officer employed in making settlements under the provisions of Regulation 7 of 1822¹, in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior Revenue-authorities, a period within which the parties must produce the award.

When Collector may summon *panchayat*

6. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector² or other officer to summon a *panchayat*, to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

Procedure of *panchayat*

7. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the *panchayat* shall declare their opinions, and judgment shall be recorded according to the sentence of the majority.

The superior Revenue-authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty, or the *panchayats*, as they may consider necessary.

Bar of appeal — submission to second *panchayat*.

8. No appeal shall be allowed from such decisions, which shall be immediately executed and maintained, unless the Commissioner, subject to the control of the * * *³ Board of Revenue⁴ should think proper, for any special reason, to direct that the case shall be submitted to another *panchayat* for decision.

Non-suit of suit to set aside decision; also suits against arbitrators.

9. Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules shall be non-suited, with costs.

10. In like manner any suit brought before any Court of Justice against the arbitrators, collectively, or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be non-suited with costs.

Intention of rules as to *malkana* in section 5, Regulation 7, 1822.

11. It is hereby declared that the rules concerning *malkana* contained in section 5, Regulation 7 of 1822¹, were intended to have a prospective effect only, and to be applicable

¹ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 248.

³ The word "Sadar," in s. 8, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

of 1833.]

(Secs. 12-20.)

solely to settlements made under that Regulation, and to recusance tendered at the completion of such settlements.

12. It is further enacted that the village-accounts which are required to be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the ¹[Board] of Revenue² shall be prepared in duplicate sets—one for deposit in the office of *pattwari*, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated, and, wherever the office of a *kamungo* may be established, a third copy shall be prepared and deposited in that office.

Village-accounts.

13. The several accounts required for deposit in the *pargana* and *Zila* revenue-offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the ¹[Board] may direct.

Accounts to be furnished according to directions of Board

They shall be open to the inspection of every person concerned desirous of examining them.

14, 15. (*Penalties to landholders for not conforming to rules regarding village accounts.*) *Rep. by the Bengal Rent Act, 1859 (10 of 1859).*

16. It shall be competent to the ³[Local Government] to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

Appointment of Deputy Collector.

17. The office of Deputy Collector shall be open to Natives of India of any class or religious persuasion.

Persons eligible to office, and how appointed

The persons selected shall be appointed by the ⁴Governor General in Council, and shall receive their commissions from Government in the usual mode, under the signature of the Secretary in the Revenue Department.

18. The Deputy Collectors will receive a monthly allowance, to be fixed by the ⁴Governor General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.

Monthly allowance how fixed, and susceptible of increase.

19. (*Solemn declaration to be made by Deputy Collectors.*) *Rep. by the Indian Oaths Act, 1873 (10 of 1873).*

20. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector⁵ under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Subordination of Deputy Collectors

¹ This word "Board", in ss. 12 and 13, was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 748.

² As to the exercise of functions of the Board of Revenue by other authorities, *see* references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

³ The words "Governor General in Council", in the original text, are to be read, as if, the words "Local Government" were substituted therefor—*see* the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 748.

⁴ *Cf.* s. 16, *ante*, which gives the power of appointment to the Local Government.

⁵ As to the exercise of the functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (4 of 1822), s. 85, *ante*, p. 248.

820 THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833.

[Ben. Reg. 9 of 1833.]

(Secs. 21-25.)

Duties in which Collectors may employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation 7, 1822¹, in the superintendence of the Government *kh s mahals*, and generally in the transaction of any other part of the duties of a Collector.²

Their proceedings how recorded and how appealable.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector² and appealable to the superior authorities in the usual course.

Collector may resume duties committed to Deputy.

23. Provided always that the Collector² is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner.

Interference by Commissioners with arrangements of Collectors for employment of Deputies.

24. Provided also that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors² for the employment of the Deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the * * * Board of Revenue⁴ or the Government, as the case may be.

Rules regarding dismissal of Deputy Collectors.

25. A Deputy appointed under this Regulation shall not be removeable but for misconduct, and with the sanction of the Governor General in Council.

Whenever there may be reason to believe that a Deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities, through the channel of the * * * Board of Revenue⁴ for the consideration of the Governor General in Council, who shall be competent to suspend him, and order a further inquiry into the conduct of such Deputy, or to direct his immediate dismissal, as may appear just and proper.

¹ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

² As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 218.

³ The word "Sadar", in ss. 24 and 25, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁴ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (I), *ante*, p. 210.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA
IN COUNCIL IN FORCE IN THE PRESIDENCY OF FORT
WILLIAM IN BENGAL.

ACT 10 OF 1836

(THE BENGAL INDIGO CONTRACTS ACT, 1836).¹

(11th April, 1836.)

1. (*Repeal of cl. 3 of s. 5 of Ben. Reg. 6 of 1823.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. ²Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause *Ninth*, section 3, Regulation 6, 1823³, of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

3. ²When a lawful contract shall have been made between a *raiyyat* and another party, by which contract the *raiyyat* shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the *raiyyat* for the purpose of enabling the *raiyyat* to fulfil such contract, then if any other person, knowing that such contract exists and that such advance has been made, shall prevail upon the *raiyyat* to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the *raiyyat*, as well as against the *raiyyat*, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit:

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 731.

LOCAL EXTENT.—This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Formal words in ss. 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The Bengal Indigo Contracts Regulation, 1823. Section 3 (9) is printed *ante*, p. 256.

(Secs. 4, 5.)

Bar of suit
for act done
to recover
debt or secure
performance
of lawful con-
tract

Power to
examine both
plaintiff and
defendant in
suit, and to
award com-
pensation to
successful
defendant.

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract.

4. ¹The Court trying any suit instituted under the provisions of Regulation 6, 1823², of the Bengal Code, or under the provisions of this Act shall be authorised to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and, if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

5. (*Power to refer certain suits to a Principal Sudar Amin or Sadar Amin.*) Rep. by the Repealing Act, 1868 (8 of 1868).

¹ Formal words in s. 4, which were repealed by the Repealing Act, 1871 (16 of 1871), are omitted

² The Bengal Indigo Contracts Regulation, 1823. It is printed *ante*, p. 253

ACT 21 OF 1836

(THE BENGAL DISTRICTS ACT, 1836).¹

(19th September, 1836.)

²It shall be lawful for ³[the Local Government, with the ^{Power to create new} previous sanction of the Governor General in Council, by ^{-dus} notification in the local official Gazette,] to create new *zilas* in any part of the Presidency of Fort William in Bengal ⁴ • ⁵.

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I, *ante post*, p. 731.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal.

It has been declared, by the Laws Local Extent Act, 1874 (11 of 1874), s. 6, (printed in General Acts, 1868-78, Ed. 1909, p. 18), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (11 of 1874), s. 3, to be in force in West Jalpaguri and the Western Duars, in the Jalpaguri District. —*see* Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 730.

DEFINITIONS.—For references to a number of definitions of the word “district,” *see* the Index to the Indian Statutes, Ed. 1911, p. 1069.

² Formal words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words “the Governor General in Council, by an Order in Council,” in the original text, are to be read as if the words “the Local Government, with the previous sanction of the Governor General in Council, by notification in the local official Gazette” were substituted therefor—*see* the Repealing and Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 748.

⁴ This includes the present Presidency of Fort William in Bengal and other territory.

⁵ The words “and to alter the limits of existing *zilas*,” which were repealed by the Repealing and Amending Act, 1904 (1 of 1903), are omitted.

OTHER ENACTMENTS.—Power to alter the limits of districts is given by the Bengal Districts Act, 1864 (Ben. Act 1 of 1864), in Vol. II of this Code. Power to alter the limits of Collectorships is also given by the Bengal Land-revenue (Assistant Collectors) Regulation, 1821 (1 of 1821), s. 8 (1), *ante*, p. 206. Power to transfer districts from one Division to another is given by the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 2, *ante*, p. 308.

For a list of districts as now existing, *see* the Bengal Quarterly Civil List, Pt. XXXA.

ORDER.—For an order made under this Act, *see* the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

ACT 12 OF 1844

(THE BENGAL LAND-REVENUE SALES ACT, 1844).¹

(19th July, 1844.)

**An Act for amending the Bengal Code in regard to sales of land
for arrears of revenue.**

1. (*Preamble and repe ls.*) *Rep. by the Repealing Act,
1870 (11 of 1870).*

2. ²There shall be no demand of interest or penalty upon
any arrear of land-revenue • • • •³ Interest and
penalty
abolished.

3 to 35. (*Sale of land for arrears of revenue; local
extent; commencement.*) *Rep. by Act 1 of 1845.*

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 731.

LOCAL EXTENT.—Section 2 of this Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, E4, 1909, p. 458), to be in force throughout the former Province of Bengal, except as near as the Scheduled Districts.

The section has been declared, by notification under the Scheduled Districts Act, 1874 (11 of 1874), s. 3, to be in force in West Jalpauri in the Jalpauri District—*see* Vol. IV, Pt. IV.

The application of the section is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (41 of 1900), s. 4 (2), *post*, p. 790.

² Formal words which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³ The words and figures " which shall fall due after the date specified in section 35 of this Act," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

ACT 9 OF 1847

(THE BENGAL ALLUVION AND DILUVION ACT, 1847).¹

(8th May 1847.)

An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, [Bihar and Orissa]

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the Provinces of Bengal, [Bihar and Orissa]; * * * *²; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof except under the provisions of this Act.

Repeal of enactments.

2. ³ [The expression "Province of Orissa", in this Act, shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal.]

"Province of Orissa" defined

3. ³ Within the said Provinces it shall be lawful for the Government of Bengal, in all districts or parts of districts of which a revenue-survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.

Power to direct new surveys of riparian lands

¹ SHORT-TITLE—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 731.

LOCAL EXTENT—This Act was passed for the whole of the former Province of Bengal—*see* the title.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 158), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 730.

INTERVAL BETWEEN SURVEYS.—In any district in which a survey has been completed and approved by the Government, a new survey of lands on the banks of rivers or on the seashore may not be ordered to be made for the purposes described in Act 9 of 1847 until ten years have expired from the completion and approval of the previous survey—*see* the Bengal Survey Act, 1875 (Ben. Act 5 of 1875), s. 3, in Vol. II of this Code.

² The words "and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued," in s. 1, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ Formal words in ss 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 4-9.)

Date of
approval of
surveys.Deduction
from *jama* of
estates from
which lands
have been
washed away.Assessment of
increments to
revenue-pay-
ing estates.Indemnity-
clause.

4. * * * * ¹ The approval of the revenue-surveys of districts or parts of districts which may be hereafter surveyed shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta * * ² Gazette ³.

5. ⁴ Whenever on inspection of any such new map it shall appear to the local Revenue-authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the *sadar jama* of the said estate equal to so much of the whole *sadar jama* of the estate as bears to the whole the same proportion as the *mufassal jama* of the land lost bears to the *mufassal jama* of the whole estate; but, if the *mufassal jama* of the whole estate or of the land lost cannot be ascertained to the satisfaction of the local Revenue-authorities, then the said local Revenue-authorities shall make a deduction from the *sadar jama* of the estate equal to so much of the whole *sadar jama* of the estate as bears to the whole the same proportion as the land lost bears to the whole estate. And this deduction, with the reasons thereof, shall be forthwith reported by the local Revenue-authorities for the information and orders of the * * ⁵ Board of Revenue ⁶, whose orders thereupon shall be final.

6. ⁴ Whenever on inspection of any such new map it shall appear to the local revenue-authorities that land has been added to any estate paying revenue directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the * * ⁵ Board of Revenue ⁶, whose orders thereupon shall be final.

7. (*Local Revenue-authorities to take possession of a new island, and to assess and settle the land.*) Rep. by the Bengal Alluvion Act, 1868 (*Ben. Act 4 of 1868*).

8. (*Exception of certain suits from operation of Act.*) Rep. by the Repealing Act, 1870 (*14 of 1870*).

9. * * ⁷ no suit or action in any Court of Justice shall lie against the Government or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act.

¹ Matter repealed by the Repealing Act, 1871 (16 of 1871), is omitted.

² The word "Government," in s. 4, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

³ For an order made under section 4, see the Bengal Local Statutory Rules and Orders, 1912, Vol. J, Part IV.

⁴ Formal words in ss. 5 and 6, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵ The word "*Sadar*" in ss. 5 and 6, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

⁶ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (*1 ante*, p. 210).

⁷ Formal words in s. 9 which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted. The words "except as regards the proprietary right to islands", in s. 9, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are also omitted.

ACT 20 OF 1848

(THE BENGAL LANDHOLDERS' ATTENDANCE ACT, 1848).¹

(23rd September, 1848.)

An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.²

Whereas, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine by the Board of Revenue or other authority exercising the powers of that Board on any proprietor or farmer of land, subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue;

And whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary power were given to the officer by whom the requisition is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority;

It is enacted as follows:—

1. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by

Penalty on landholders not attending when summoned by Collector.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 731.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see* the title.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed i General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

OTHER ENACTMENTS.—As to the attendance of landholders or their agents, *see also*—

the Bengal Land-revenue Regulation, 1793 (2 of 1793), s. 33, *ante*, p. 25;

the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 10, *ante*, p. 87;

the Bengal Patwaris Regulation, 1817 (12 of 1817), ss. 29, 31, 32, *ante*, pp. 146 and 147;

the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s. 13 (3), *ante*, p. 177;

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19, *ante*, p. 287; and

the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (2) *ante*, p. 371.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2-7.)

- the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees: and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process¹ as is prescribed for the recovery of arrears of revenue.
- Levy of fine.** **2.** The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the Local Government.
- Report of imposition and levy of fine.** **3.** Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal.
- Appeal from Collector's orders.** **4.** Whenever the amount levied under any such order issued for any default by authority of a Collector under this Act shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue.
- Special report of levy exceeding five hundred rupees.** **5.** Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations.
- Saving of power to fine.** **6.** The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector.
- "Collector" defined.** **7.** *This Act shall not extend to the North-West Provinces² of the Presidency of Bengal.*
- Extent of Act.**

¹ See now the Public Demands Recovery Act, 1895 (Ben. Act I of 1895), s. 7, in Vol. III of this Code.

² The designation of these Provinces has been changed—see the United Provinces Designation Act, 1902 (7 of 1902), in General Acts, 1898-03, Ed. 1909, p. 566

ACT 23 OF 1850

(THE CALCUTTA LAND-REVENUE ACT, 1850)¹.

(8th June, 1850).

An Act for securing the Land-revenue of Calcutta

Whereas it is expedient that the land-revenue accruing due to the East India Company within Calcutta be ascertained and collected in as summary a manner as in other parts of the territories under the government of the East India Company²; It is declared and enacted as follows:—

Preamble.

1. All assessable lands, not the property of the East India Company², within the town of Calcutta, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rate of three annas for each *cottah*.

Assessment of unassessed lands.

2. *Lakhiraj* tenures of land in Calcutta, of which uninterrupted possession has been held exempt from assessment for sixty years, shall be valid; no other *lakhiraj* tenures of land in Calcutta shall be deemed valid unless the same are or shall be held under an unexpired grant from the British Government.

Lakhiraj tenures

3. If any owner of land within Calcutta, or any person holding land within Calcutta on lease from the East India Company² shall, upon the written demand of the Collector, refuse or neglect to pay any sum at which the land is assessed, or for which he is liable under his lease, the Collector may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee, or, after written demand upon the tenant or occupier, and his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any goods and chattels found upon the land, in the manner appointed for regulating distress for small rents in Calcutta by³ [the Presidency Small Cause Courts Act, 1882, Chapter VIII]; and, for the purpose of any such distress and sale, the Collector shall have all the powers of⁴ [the Judges of the Court of Small Causes at Calcutta]; and the Collector shall have power to

Levy, by distress and sale, of unpaid assessments.

15 of 1882.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 731.

LOCAL EXTENT.—This Act extends only to Calcutta—see the title and preamble.

DEPUTY COLLECTOR.—As to the transfer of the Collector's duties under this Act to the Deputy Collector, see the Calcutta Land-revenue Act, 1856 (18 of 1856), s. 3, *post*, p. 355.

² As to the transfer of the territories of the East India Company to the Crown, see the Government of India Act, 1858 (21 & 22 Vict., c. 106), printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 300.

³ The words and figures "the Presidency Small Cause Courts Act, 1882, Chapter VIII," in s. 3 were substituted for the words and figures "Act 7, 1847," by the Presidency Small Cause Courts Act, 1882 (15 of 1882), s. 3, printed in General Acts, 1879-86, Ed. 1909, p. 400.

⁴ The words "the Judges of the Court of Small Causes at Calcutta," in s. 3, were substituted for the words "a Commissioner of the Court for recovery of small debts referred to in the said Act" and "the said Commissioners" respectively, by the Presidency Small Cause Courts Act, 1882 (15 of 1882), s. 3, printed in General Acts, 1879-86, Ed. 1909, p. 400.

(Secs. 4-10.)

Powers of
Collector for
distress and
sale.

appoint any of his officers to perform the duties of bailiffs and appraisers, and of the chief clerk of the said Court, * * *¹ and all the provisions of the said Act relating to² [the Judges of the Court of Small Causes at Calcutta] and their Court shall be deemed to apply to the said Collector and his office in the execution of this Act.

Deduction by
occupier from
landlord's
rent.

4. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

Priority of
Government
claim.

5. The claim of the East India Company for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

Distress not
stayed unless
amount
lodged.

6. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

Recovery of
arrears.

7. Arrears of rent or revenue which shall become due to the East India Company within the town of Calcutta after the passing of this Act shall be recoverable at any time within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable or his agent, and not afterwards.

Inquiry into
claims to
hold land
lakhiraj.

8. When a claim to hold land *lakhiraj* or free of assessment shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings and decision in the case for the consideration of the Revenue Commissioner. If the Commissioner is satisfied of the validity of the claim, he shall make an order accordingly, and such order shall be final. If he is not satisfied of the validity of the claim, he shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts as herein provided.

Penalty for
obstructing
Collector.

9. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty shall, on conviction before a Magistrate of the town of Calcutta, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common jail for a term not exceeding six months, or until the fine is sooner paid.

Power to
punish
contempts.

10. the Collector may punish any contempt committed in his presence in open *cutcherry* or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common jail for a term not exceeding one month:

¹ The words "as provided by the said Act," which were repealed by the Presidency Small Cause Courts Act, 1882 (15 of 1882), s. 8, are omitted.

² The words "the Judges of the Court of Small Causes at Calcutta," in s. 3, were substituted for the words "a Commissioner of the Court for recovery of small debts referred to in the said Act" and "the said Commissioners", respectively, by the Presidency Small Cause Courts Act, 1882 (15 of 1882), s. 8, in General Acts, 1879-86, Ed. 1909 p. 400.

of 1850.]

(Secs. 11-14.)

from every such order, or fine or imprisonment, an appeal shall lie to the Commissioner, whose decision shall be final.

11. The Collector shall act in the execution of this Act from lands in Calcutta are revenue within the meaning of the Act of Parliament 21 Geo. 3, c. 70,¹ and the Supreme Court² of Judicature established by Royal Charter at Fort William in Bengal has not any civil jurisdiction concerning the said ground-rents or concerning anything ordered or done in the assessment or collection thereof.

Control of
Collector.

12. All actions concerning any trespass or injury committed by any Revenue-officer acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any moneys paid to, any Revenue-officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company at the *sadar* station of the 24-Parganas, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein resides, within the limits of the town of Calcutta; and every such action shall be brought within six months after the cause of action arose, and not afterwards.

Bar of
Jurisdiction of
Supreme
Court.

13. The words "Collector" and "Commissioner" used in this Act shall be taken to mean any person lawfully appointed to exercise the powers of Collector and Commissioner respectively.

Jurisdiction
of Courts of
24-Parganas.

Limitation

"Collector,"
"Commissioner"

¹The East India Company Act, 1780. It is printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 17.

²Now the High Court—see the Indian High Courts Act, 1861 (24 & 25 Vict., c. 101), s. 11 printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 359.

ACT 25 OF 1850

(THE FORFEITED DEPOSITS ACT, 1850).¹

(14th June, 1850.)

**An Act for the forfeiture to Government of deposits made on
incomplete sales of land under Regulation 8, 1819.² * * ***

Whereas *patnidars* * * *³ fraudulently avail themselves of the provision⁴ in section 9, Regulation 8, 1819², of the Bengal Code * * *⁵ that forfeited deposits at sales of land * * *⁶ for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1. (*Repeals.*) *Rep. by the Repealing Act, 1870 (11 of 1870).*

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.

Preamble.

Application
of forfeited
deposits

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 638.

LOCAL EXTENT.—Since this Act supplements Ben. Regulation 8 of 1819, it must be taken to have been passed, like that Regulation (*ante*, p. 187), for the whole of the former Province of Bengal. The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² The Bengal Permanent Sales Regulation, 1819. It is printed *ante*, p. 187.

³ The words and figures “and Act 4, 1846”, in the title, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ The words “and judgment-debtors”, in the preamble, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁵ The provision here referred to was repealed by s. 1 of the present Act.

⁶ The words and figures “and in section 5, Act 4, 1846”, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁷ The words “in execution of decrees or”, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

ACT 14 OF 1850

(THE BENGAL BOARD OF REVENUE ACT, 1850)¹.

(27th December, 1850.)

An Act for consolidating the Board of Customs, Salt and Opium and the *Sadar* Board of Revenue in the Lower Provinces of Bengal.

[Whereas, by Regulation 4, 1819², of the Bengal Code, a Board of Revenue in the Customs, Salt and Opium Department was constituted in the Province of Bengal, with all the duties, powers and authorities of the Board of Revenue with respect to customs and town duties, and with the powers theretofore possessed by the Board of Trade in the Salt and Opium Departments; and whereas it is not now necessary that this Board should be continued separate from the Board of Revenue in the Lower Provinces of Bengal;] It is enacted in follows:—

1. (*Repeal of Bengal Regulation 4 of 1819.*) Rep. by the *Repealing Act, 1870 (14 of 1870).*

2. All powers and duties now vested in, or belonging to, the Board of Revenue in the Customs, Salt and Opium Department and its officers respectively shall be transferred to the *Sadar* Board of Revenue³ constituted in the said Lower Provinces according to Regulation 1, 1829⁴ of the Bengal Code, and its officers, respectively:

Powers of Board of Customs, Salt and Opium transferred to *Sadar* Board.

and all Acts and Regulations now in force relating to the said Customs, Salt and Opium Board of Revenue or its officers shall be understood henceforth as if the said *Sadar* Board of Revenue³ and its officers had been respectively mentioned therein instead of the said Board of Customs, Salt and Opium and its officers.

3. The said *Sadar* Board of Revenue shall be henceforth styled the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.

Style of Board.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 1—see *post*, p. 732.

LOCAL EXTENT.—This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—see Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Ben. Reg. 4 of 1819 was repealed by s. 1 of this Act.

³ As to the exercise of functions of the Board of Revenue by other authorities, see references⁵ cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

⁴ The Bengal Revenue Commissioners Regulation, 1829. See s. 4 (2) and (2) of that Regulation, *ante*, p. 309.

ACT 6 OF 1853

(THE RENT RECOVERY ACT, 1853)¹.

(15th April, 1853.)

An Act relating to summary suits for arrears of rent, to sales of *patni taluks* and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

[Whereas by Regulation 8, 1831,² of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zila or City Courts to the Collectors of land-revenue of the several districts ; Preamble.

And whereas by Regulation 7, 1832,³ of the Bengal Code the conduct of sales of *patni taluks* and other saleable tenures under Regulations 8, 1819,⁴ and 1, 1820,⁵ of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land-revenue or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided ;

And whereas by Act 8, 1835⁶, the power theretofore vested in the Judge of the Divani Adalat of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of Land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation 7, 1799⁷, should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the *cutcherry* of the Zila Court or local Adalat and that of the Collector ;]

And whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the *zila* or other district of one Collector form part of an entire estate paying revenue to the Collector of another *zila* or district ;

¹ SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—*see post*, p. 638.

LOCAL EXTENT.—This Act contains no local extent clause, but the intention probably was that it should extend to the same areas as the enactments cited in the preamble.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Ben. Reg. 8 of 1831 was repealed by the Bengal Rent Act, 1859 (10 of 1859), *post*, p. 387.

³ Ben. Reg. 7 of 1832 was repealed by the Bengal Civil Courts Act, 1871 (6 of 1871).

⁴ The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 187.

⁵ The Bengal Patni Taluks Regulation, 1820. It is printed *ante*, p. 208.

⁶ Act 8 of 1835 and Ben. Reg. 7 of 1799 were repealed by the Repealing Act, 1874 (16 of 1874).

⁷ Portion of the preamble relating to Act 25 of 1850 and Regulation 8 of 1819, s. 9, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

(Secs. 1-5.)

in order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in *patni* or other tenure at one entire rent are situate in two or more Collectorates * * * ¹;

It is enacted as follows:—

Conduct of
sale of lands
when all in
one collector-
ate;

when in two
or more
collectorates.

Procedure in
case of doubt
as to officer
having
jurisdiction.

"Collector-
ate" defined.

Powers and
jurisdiction
of independ-
ent Deputy
Collector.

"Independent
Deputy
Collector."

"Deputy
collectorate."

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

If one *taluk* or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement or at one entire rent, the Collector in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the sale of such *taluk* or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

2. If a Collector to whom application shall be made to exercise any of the powers above-mentioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board ² to which he is subordinate, and, if ordered by such Board ² to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

3. The word "Collectorate" in this Act means the *zila* or other district to which a Collector is appointed, and no lands situate beyond the limits of such *zila* or district shall be deemed to be situate within the collectorate by reason of their forming part of an estate paying revenue to the Collector thereof.

4. An independent Deputy Collector may, within his Deputy Collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his Collectorate; and, with reference to the exercise of such powers and jurisdictions, his Deputy Collectorate shall be deemed a Collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

5. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector, whether his office is one for the receipt of revenue or not.

A Deputy Collectorate is the district within which an independent Deputy Collector is directed by Government to act.

¹ The words "and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

of 1853.]

(Secs. 6-10.)

6. In cases of sales by an independent Deputy Collector under the above-mentioned Regulations or Act, any notice thereby required to be stuck up at the *cutcherry* of the Collector may be stuck up at the *cutcherry* of the Deputy Collector.

Publication of notice of sale by independent Deputy Collector.

7. An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy Collectorate in public *cutcherry*, in whatever part of his Deputy Collectorate the same may be situate or held.

Exercise of powers of independent Deputy Collector.

8. Any notice required by the above-mentioned Regulations or Act to be given by advertisement to be stuck up at the *cutcherry* of the *Zila* Court or local *Adalat* shall be stuck up at the *Zila* Court or local *Adalat* within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

Publication of notice required by law to be advertised.

9. (*Order, etc., not to be disputed on ground that Collector was not the Collector of proper district.*) Rep. by the Repealing Act, 1873 (12 of 1873).

10. (*Extension of certain enactments to all sales under Act 8 of 1855.*) Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).

ACT 32 OF 1855

(THE BENGAL EMBANKMENT ACT, 1855)

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[Act 32 of 1855.]

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ACT 32 OF 1855

(THE BENGAL EMBANKMENT ACT, 1855)¹.

(30th November, 1855.)

An Act relating to Embankments.

Whereas the Regulations now in force for the maintenance of embankments in the territories under the Government of the Lieutenant-Governor of Bengal² have been found ineffectual for the intended purposes thereof; and whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

1. (*Repeal of Bengal Regulations 6 of 1806 and 11 of 1829.*)
Rep. by the Repealing Act, 1870 (14 of 1870).

2. The word “embankment” in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

“Embankment” defined

3. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments.

Superintendent of Embankments

4. *Clause 1.*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Charge of embankment connecting public embankments, etc.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Removing private embankment endangering public one.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Changing line of embankment or making new one.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 1—*see post*, p. 732.

LOCAL EXTENT.—This Act was declared by the Laws Local Extent Act, 1871 (45 of 1871), section 6 (printed in General Acts 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It had, however, previously been repealed everywhere, except in Orissa and the Sunderbans, by the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), parts of which are printed in Vol. II of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2) *post*, p. 790.

The only portion of the present Presidency of Fort William in Bengal in which the Act is in force is the Sunderbans.

FURTHER ENACTMENTS.—For further enactments relating to embankments, *see*—

the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866),
the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), and } in Vol. II of this Code,
the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)

² This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 5, 6.)

Enlarging embankment, etc.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Notice to Collector before taking charge, etc

5. *Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Issue of proclamation

Upon the receipt of such notice the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of proclamation

Clause 2.—The proclamation shall be published by affixing the same in the *cutcherry* of the Collector, the *malcutcherry* (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof.

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue¹; but no appeal shall lie against any order passed under this section, unless the same be presented within one month from the date of the order.

Orders not open to revision by Civil Court.

Clause 5.—Subject to the right of appeal above-mentioned and to the orders and control of Government, every order passed under this section shall be final and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Charging cost of maintaining private embankments in charge of Government officers.

6. Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person:

Proviso.

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1862 (3 of 1822), s. 4 (1) *ante*, p. 210.

and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

7. Clause 1.—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the order of the superior Revenue-authorities.

Compensation
for damages.

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action; but such action shall not lie unless the claimant shall have first preferred his claim to the Collector within the period above mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the Revenue-authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue-authorities.¹

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator.

Appointment
of arbitrators

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them a person to act as arbitrator on behalf of the claimants.

Arbitrator
how chosen
when there
are several
claimants for
compensation

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and, in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator.

Appointment
of third arbi-
trator.

¹ For a restriction upon the payment of compensation, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 1, in Vol. II of this Code.

(Sec. 7.)

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Appointment
in place of
arbitrator not
acting

Clause 5.—If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Collector em-
powered to
enforce
attendance of
arbitrators

Clause 6.—After the arbitrators have accepted the appointment, the Collectors shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

In default of
award within
specified
period, fresh
arbitrators
may be
chosen

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to
furnish in-
formation to
arbitrators,
and to enforce
attendance
and examina-
tion of wit-
nesses, etc.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of inquiry.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them.

Penalty on
witness not
appearing

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially.

Penalty for
false deposi-
tion.

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

A ward of
arbitrators,

Clause 9.—On the close of the inquiry the arbitrators shall deliver a full and complete award, which shall specify the

of 1855.]

(Sec. 7.)

amount of compensation and the party or parties entitled thereto.

The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *prima facie* evidence thereof.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

When payment of compensation may be deferred

Clause 11.—No award passed under this section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award.

Reversed or alteration of award

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs.

Dismissal of suits against Government

But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Proviso

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in *Clause 1* of this section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

Estimated value of benefit to be set off against compensation awarded

Clause 14.—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment.

Exception of cases of compensation in respect to huts, trees or crops

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

(Secs. 8-10.)

Application
by landholder
to have a
sluice made
in public
embankment.

8. Clause 1.—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.¹

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government; and, as regards any other public embankment whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Officer in
immediate
charge to
report on pro-
posed work

Clause 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction.

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Upon appli-
cant engaging
to defray cost,
Collector
may issue
certificate.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of *Clause 1* of this section, as the case may be, and, upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice.

Opening of
sluices.

9. Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in
immediate
charge may
authorize
temporary
watercourse,
etc., to be
made.

10. Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think

¹ As to apportionment of cost of sluice where lands of several owners are benefited, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 6, in Vol II of this Code.

of 1855.]

(Sec. 11.)

fit, subject to the control of the Superintendent of Embankments.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

11. Clause 1.—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of *zamindars* or others shall be prepared as soon after the rains in each year as may be practicable.

Annual specifications and estimates for maintaining or improving embankments kept up at expense of *zamindars*

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments.

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper:

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue¹ and of Government, may disallow the construction of the work.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of *zamindars* or others, and in constructing and repairing sluices and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1) ante p. 216.

(Sec. 12.)

performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process¹ which is or may be in force for the recovery of arrears of Government revenue.

Superintendent to report to Collector as to removal of buildings, etc.

12. Clause 1.—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated.

Collector to give notice to claimants.

Clause 2.—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest *bazar*, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner:—

Selection of jury.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of jury.

Clause 4.—The jury shall assess the value of each house, hut or building separately.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of jury.

Clause 5.—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the

¹ See now the Public Demands Recovery Act, 1895 (Beng. Act I of 1895), s. 7, printed in Vol. III of this Code.

of 1855.]

(Secs. 13-17.)

houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

The award shall be final and conclusive and not open to question in the Civil Court:

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

After award, Collector to give notice of payment, and to remove buildings, etc., in thirty days

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

When Collector may remove buildings, etc., at cost of owners.

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building shall be liable to be imprisoned for any time not exceeding six months, with or without labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for obstructing officer in discharge of duty

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or opens any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both.

Penalty for wilful damage to embankment by cutting, etc.

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam

Penalty for other wilful damage.

(Secs. 18-21.)

or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Jurisdiction
of Deputy or
Assistant
Magistrate

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor-General of India in Council * * *¹.

19. (*Provision of s. 13 of Bengal Regulation 20 of 1817 extended to this Act.*) *Rep. by the Repealing Act, 1871 (16 of 1874).*

Right of
appeal.

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant under this Act shall be appealable, subject to the general provisions which regulate appeals.

Interpreta-
tion.

21. In the construction of this Act, * * *² the word "Collector" shall mean any Collector, Deputy Collector or other revenue-officer in independent charge of any district or portion of a district.

¹ The words "with respect to the punishment of misdemeanours", which were repealed by the Repealing Act, 1871 (16 of 1874), are omitted.

² The provision as to number and gender, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 13, in General Acts, 1887-97, Ed. 1909, p. 580.

ACT 18 OF 1856

(THE CALCUTTA LAND-REVENUE ACT, 1856).¹

(23rd August, 1856.)

An Act relating to the administration of the public revenues in the Town of Calcutta.

Whereas it is expedient that the Collector of Calcutta • • •² Preamble
should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office; It is enacted as follows:—

1. (*Regulations modified.*) Rep. by the Repealing and Amending Act, 1891 (12 of 1891).

2. (*Collector to have charge of collection of stamp-duty in Calcutta.*) Rep. by the General Stamp Act, 1869 (18 of 1869).

3. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him in the performance of any part of the duties of his office under • • •³ Act 23 of 1850⁴; and all Rules, Regulations and Acts relating to the office of Deputy Collector shall be of the same force within the town of Calcutta as in other parts of the territories subject to the Presidency of Fort William in Bengal.⁵ Collector may entrust any part of his duties to his Deputy

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 732.

² The words "should have charge of the collection of the stamp-duty within the town of Calcutta, and that he," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

³ The words and figures "the said Regulation, or under Act 11 of 1819, or," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ The Calcutta Land-revenue Act, 1850. It is printed *ante*, p. 331.

⁵ This includes the present Presidency of Fort William in Bengal and other territory.

ACT 22 OF 1856

(THE KARATOYA TOLLS ACT, 1856).¹

(5th December, 1856.)

An Act for establishing a toll on boats and timber passing through the Karatoya river in the district of Bogra.

Whereas it is expedient, with a view to afford facilities for the internal commerce of the districts of Dinajpur, Rangpur and Bogra, to adopt measures for the improvement of the navigation of that part of the Karatoya river which lies within the district of Bogra ;

And whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts and floats passing through or within such part of the said river ;

And whereas it is expedient to encourage individual enterprise and the employment of private capital on works of public utility ;

It is enacted as follows :—

1. Tolls, at the rates specified in the Schedule annexed to this Act, may be levied on all boats, timber, rafts and floats passing through or within the aforesaid part of the Karatoya river, at such stations or places as the Lieutenant-Governor of Bengal² may from time to time appoint.

Tolls may be levied on Karatoya ;

The said tolls shall be levied by such persons, and under such rules, as the said Lieutenant-Governor² may direct ; and all such rules shall be duly notified in the English and Vernacular³ Gazettes for public information.

2. Provided that no such toll shall be levied until the Lieutenant-Governor of Bengal² shall be satisfied, by the report of a competent person, that effective measures have been taken to render the passage through the said part of the Karatoya river navigable throughout the year :

but not till river is made navigable.

Provided, also, that the levy of the said tolls shall be continued only so long as the passage is kept so navigable.

SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I.—see *post*, p. 732.

LOCAL EXTENT.—This Act applies only to that part of the Karatoya river which lies within the district of Bogra—see the preamble and s. 1.

OTHER ENACTMENTS AS TO TOLLS.—For other enactments as to tolls, see the Index to the Indian Statutes, Ed. 1911, p. 1000.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

³ The Vernacular Gazettes of the Government of Bengal have been discontinued.

(Secs. 3-6.)

Boats, etc.,
may be
detained and
sold for non-
payment of
toll.

3. Any person duly appointed or authorised to collect the said tolls may detain any boat, timber, raft or float for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra or other public officer duly authorized by Government in that behalf may publish a notice appointing a day for the sale of the same.

At or after the time appointed by the notice, which shall not be less than fifteen days from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof or, in the case of a raft or float, such part of the same, as may be necessary for the recovery of the toll, and shall pay the overplus, if any, to the owner on demand.

Penalty for
unlawful
detention.

4. Any person who, under colour of this Act, shall unlawfully detain any boat, timber, raft or float, or shall neglect, or without lawful excuse delay, to report the detention of any boat, timber, raft or float, the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the Schedule annexed to this Act, shall, on conviction before a Magistrate * * *,¹ forfeit a sum not exceeding two hundred rupees.

Government
may authorize
person to
carry out
objects of
Act;

5. For the purpose of carrying out the objects of this Act the Lieutenant-Governor of Bengal² may authorize any public officer to cut any canal, clear and deepen any channel, stop any watercourse, or take any other measures which may be judged necessary for making the river navigable as aforesaid, or may grant the like authority to any private person who may undertake to carry out those objects at his own expense;

and may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of * * *,³ any Act⁴ that may hereafter be in force for taking possession of land for public purposes; whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

and may make
grant of tolls.

6. If the Lieutenant-Governor² shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to the said Lieutenant-Governor² shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls.

¹ The words "or other officer exercising the powers of a Magistrate," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 771 and 776.

³ The words and figures "Regulation 1 of 1824 or of," in s. 5, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ See, now the Land Acquisition Act, 1894 (1 of 1894), in General Acts, 1887-97, Ed. 1909, p. 368.

of 1856.]

(Schedule.)

SCHEDULE.

Of tolls chargeable on boats, timbers, rafts and floats passing into or through the Karatoya river within the district of Bogra.

<i>Bayrás, bháundias</i> and other boats for personal accommodation	Four annas per oar.
Boats of burthen, empty	At the rate of two annas per 100 maunds burthen.
Boats of burthen, laden with bricks, tiles and earthen-ware; straw, grass, reeds and firewood; fruit and vegetables	At the rate of four annas per 100 maunds burthen.
Boats of burthen, laden with grain, pulse, seeds and any other article not expressly enumerated	At the rate of twelve annas per 100 maunds burthen.

Timbers in rafts or otherwise, not being in boats, two annas each timber.

Bamboos in floats, four annas per 100 bamboos.

Every boat less than 50 maunds burthen shall be rated as 25 maunds; every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds; every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds; every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on.

Any number of bamboos less than an even hundred shall be rated as 100.

ACT 13 OF 1857
(THE OPIUM ACT, 1857).

CONTENTS.

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SECTION.

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4. Officers amenable to Civil Courts
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5. Sanction to suit by Agent
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9. Cultivator to have option to engage to cultivate or not.
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12. Opium to be weighed and classified by Sub-deputy Agent
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16. Adjustment of cultivators' accounts, and recovery of balance by distress
Sanction to issue of warrant.
17. Penalty on officer taking bribes.
18. Exactions by landholder from *raiyat* recoverable, together with penalty, in summary suit before Collector.
19. Penalty for embezzlement of opium by cultivator.
20. Penalty for illegal purchase of opium from cultivator,
and for illegal connivance at embezzlement by Opium-officer
21. Penalty for unlicensed cultivation.
22. Duty of landholders and others to give information of illegal cultivation.
23. Duty of police and other officers to give information of illegal cultivation.
24. Police or *abkari daroga* how to proceed in case of illegal cultivation.
25. Landholders, etc., may attach in cases of illegal cultivation.
26. Adjudication of penalties.
27. Imprisonment in default of payment of fine.
28. Punishment for repetition of offences
29. Place of imprisonment under section 28.
30. Disposal of fines and forfeitures.
31. Governor General may allow free cultivation of poppy and manufacture of opium in any district.
Power to prescribe rules for delivery to Government officers

ACT 13 OF 1857

(THE OPIUM ACT, 1857)¹.

(6th June, 1857.)

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal².

Whereas the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed;

And whereas it is also expedient * * *³ that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended;

It is enacted as follows:—

1. (*Laws repealed*). *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. (*Prohibition of poppy cultivation and opium manufacture*). *Rep. by the Opium Act, 1878 (1 of 1878).*

3. The superintendence of the provision of opium for Government shall be entrusted to Agents or other officers, being covenanted servants of the Company duly appointed by

Officers entrusted with superintendence of provision of opium

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I, *see post*, p. 732.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see the title*.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (in General Acts, 1868-78, Ed. 1909, p. 158), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—*see Vol. IV, Pt. IV*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

The Act ceases to be in force in districts in respect of which an order is published under s. 31—*see that section, post*, p. 368.

OTHER ENACTMENTS.—For the general law as to Opium, *see the Opium Act, 1878 (1 of 1878)*, in General Acts, 1868-78, Ed. 1909, p. 560.

As to the levy of customs duty on opium, *see*—

the Sea Customs Act, 1878 (8 of 1878), ss. 20 (b) and 50 (d) (in General Acts, 1868-78, Ed. 1909, pp. 625, 633), and

the Indian Tariff Act, 1894 (8 of 1894), ss. 2 (4), 3, 5, 7 and Sch. III (in General Acts, 1887-97, Ed. 1909, pp. 384, 385, 391).

As to securing the attendance of officers of the Opium Department before Criminal Courts, *see the Bengal Police Regulation, 1817 (20 of 1817), s. 29 (1) to (4), ante*, pp. 156, 157.

As to the suppression, by the police, of the illicit cultivation, manufacture, sale, purchase, importation, transport and possession of opium, *see ib.*, s. 29 (9), (12), *ante*, pp. 157, 158.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ The words "that certain obsolete Regulations relating to the provision of opium should be formally repealed, and," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 4-7.)

Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue ¹[of the United Provinces of Agra and Oudh.]

Assistant to Agent.

The Agents or other officers as aforesaid shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex officio* Deputy Agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers amenable to Civil Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit without previous application to Agent for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

Sanction to suit by Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

Board may in certain cases appoint officer to conduct or defend suits

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board to fix limits of cultivation and price to be paid to cultivators.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per seer of eighty *tolas* for opium of a certain standard consistence, and shall be subject to a rateable reduction according to a scale sanctioned

¹ The words "of the United Provinces of Agra and Oudh," in s. 3, were substituted for the words "of Calcutta" by the Opium (Amendment) Act, 1911 (1 of 1911), s. 2, *post*, p. 767

of 1857.]

(Secs. 8-11.)

by the Board of Revenue, for opium of a consistence below the standard.

8. The Sub-deputy Agents or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of Government at the established rates.

Issue of
licenses.

Every license shall specify the number of *highas* which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct.

What to be
specified in
license

A counterpart-engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Cultivator to
have option to
engage to
cultivate or
not.
Officers
compelling
cultivator to
engage liable
to be
dismissed.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Sub-deputy
Agent may
withhold
license to
cultivate.
Appeal.

Any person to whom a license has been refused may appeal to the Agent and the decision of the Agent shall be final.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Penalty on
cultivator
receiving
advances and
not
cultivating
full quantity
of land.
Adjudication
of penalty.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Appeal.

11. All opium the produce of land cultivated with poppy on account of Government shall be delivered by the cultivators to the Sub-deputy Agents or other district-officers, or shall be brought by them to the *sadar* factory, as the Agent may direct.

Delivery of
opium
produced.

And no such opium shall be liable to be distrained or attached by a *zamindar* or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district-officer under the rules in force for such attachments.

Opium not
liable to
distrain or
attachment.

Value the
may be
attached

(Secs. 12-15.)

Opium to be weighed and classified by Sub-deputy Agent.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district-officer shall, before it is forwarded to the *sadar* factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding where cultivator is dissatisfied with classification

Any cultivator who may be dissatisfied with the classification of the district-officer shall be at liberty either to take his opium to the *sadar* factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at *sadar* factory.

13. All opium forwarded by the district-officers to the *sadar* factory, and all opium delivered at the *sadar* factory by the cultivators, shall be there weighed and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a district-officer, or at the *sadar* factory, is suspected of being adulterated with any foreign substance it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final and not open to question in any Court.

Weights and scales;

15. The weights and scales made use of in the *sadar* factories and at the district *kothis* shall be provided by the Board of Revenue.

examination thereof.

Every district-officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the *sadar* factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight

of 1857.]

(Secs. 16-20.)

for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

16. The accounts of the cultivators shall be adjusted annually by the district-officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any *matho* or intermediate manager, may be recovered by the district-officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held *khts* may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue:

Adjustment of cultivators' accounts and recovery of balance by distress.

Provided that no warrant of distress and sale shall be issued by any district-officer without the sanction of the Agent previously obtained.

Sanction to issue of warrant

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees.

Penalty on officer taking bribes

18. If any *zamindar* or other proprietor of land, or any farmer of land shall exact from any *raiyyat* on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the *raiyyat*, or the Sub-deputy Agent or other district-officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Exactions by landholder from *raiyyat* recoverable, together with penalty, in summary suit before Collector

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for embezzlement of opium by cultivator.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium,

Penalty for illegal purchase of opium from cultivator

(Secs. 21-23.)

and for illegal
connivance at
embezzlement
by Opium
officer.

and any officer of the Opium Department ~~conniving~~ in any way at the embezzlement or illegal disposal of any opium,

shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation.

Penalty for
unlicensed
cultivation

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha*; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per *bigha* of land illegally cultivated.

Duty of
landholders
and others
to give
information
and others
of illegal
cultivation

22. All proprietors, farmers, *tahsildars*, *gumáshtas* and other managers of land shall give immediate information to the police or *abkári darogas*, or opium *gumáshtas*, or to the Magistrates, Collectors or officers in charge of the *abkári mahál*, or to the Agents, their deputies or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, *tahsildar*, *gumáshta* or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of
police and
other officers
to give
information
of illegal
cultivation.

23. All police and *abkári darogas*, and opium *gumáshtas*, and all Native officers of Government of whatever description, and all *chaukidars*, *paiks* and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-Deputy Agent or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the *abkári mahál* if in a district where the poppy is not so cultivated.

Every police or *abkári daroga*, opium *gumáshta*, Native officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable

of 1857.]

(Secs. 24-30.)

to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

24. Whenever a police or *abkari daroga* or opium *gumashla* shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

Police or *abkari daroga* how to proceed in case of illegal cultivation

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

25. Proprietors, farmers, *tashildars*, *gumashlas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or *abkari daroga* or opium *gumashla*, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Landholders, etc., may attach in cases of illegal cultivation

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the *abkari mathal*:

Adjudication of penalties

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months or until the fine is sooner paid.

Imprisonment in default of payment of fine

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Punishment for repetition of offences.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Place of imprisonment under section 28.

(Secs. 30, 31.)

Disposal of
fines and
forfeitures

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each seer of opium confiscated and declared by the Civil Surgeon to be fit for use, shall upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each *seer* of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Governor
General may
allow free
cultivation of
poppy and
manufacture
of opium in
any district

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and, when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Power to
prescribe
rules for
delivery to
Government
officers.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and, when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

ACT 21 OF 1857

(THE HOWRAH OFFENCES ACT, 1857)

CONTENTS.

PREAMBLE.

SECTION.

1. Cases under this Act by whom to be tried
2. Possession of stolen property by one who fails to account satisfactorily for the possession
Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate
Penalty if such possession fraudulent
3. Apprehension and punishment of reputed thieves, etc
- 4 to 6. (*Repealed*)
7. Brothels.
- 8, 9. (*Repealed*)
10. Penalty for owning or keeping, or having charge of, a gaming house, etc
11. Penalty for being found playing in a gaming house
12. Magistrate may authorize certain police officers to enter a gaming house for the purpose of search and seizure
13. On conviction for keeping a gaming house, instruments of gaming to be destroyed, etc
14. Portion of fine may be paid to informer
15. Gambling in the streets.
- 16, 17. (*Repealed*)
18. Manufacture or possession of gunpowder.
19. Licenses by Magistrate for sale and deposit of gunpowder, etc
20. Penalty for drunkenness, or riotous or indecent behaviour in public
21. Penalty for committing nuisance in streets
22. Beggars
23. Penalty for the following offences in public streets, etc :-
 funous or negligent driving or riding ;
 letting loose horses, ferocious dogs, etc. ;
 leaving cart, etc., without control
 obstruction to passengers by fastening animals
 ill-treating animals ;
 lighting fires and discharging guns, fire-works, etc
- 24 to 50. (*Repealed*)
51. Police-officer may arrest without warrant on view of offence.
52. Police-officer may take into custody, without warrant, persons charged with aggravated assault recently committed.
53. Persons taken into custody by a Police-officer, without warrant, may be detained in police-office until brought before Magistrate or bailed.
54. Procedure on information or complaint laid before the Magistrate of an offence against this Act.
55. (*Repealed*)
56. Jurisdiction.
57. Application of fines.
58. (*Repealed*)
59. Interpretation.

SCHEDULE.

ACT 21 OF 1857

(THE HOWRAH OFFENCES ACT, 1857).¹

(10th July, 1857.)

An Act to make better provision for the order and good government of the station of Howrah.

Whereas Acts have been passed for regulating the police and for the conservancy and improvement of the town of Calcutta and of the other presidency-towns; and whereas large portions of the station of Howrah are not less populous than parts of the said town, and it will conduce to the order and good government of the said station that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said station; It is enacted as follows:—

1. Whoever is charged with having committed any of the offences mentioned in this Act, within the limits of the said station, as described in the Schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed;

and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

2. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Clause 2.—If any person, charged with having or conveying anything stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant to convey the same for some other person,

the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 733.

LOCAL EXTENT.—This Act applies only to Howrah—see the title and preamble.

²The words “of the suburbs of Calcutta and”, in the title, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

³The words “the suburbs of the said town of Calcutta and of”, in the preamble, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁴The words “suburbs and”, in the preamble, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

⁵The words “suburbs or”, in s. 1, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Preamble

Cases under this Act by whom to be tried.

Possession of stolen property by one who fails to account satisfactorily for the possession

Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.

(Secs. 3-9.)

that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same;

Penalty if such person fraudulent.

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Apprehension and punishment of reputed thieves, etc.

3. Any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another;

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any *bazar*, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein;

and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking,

shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months;

and any such person may be taken into custody by any police-officer without a warrant.

4 to 6. (*Penalty for carrying arms without authority; order for maintenance of wives or children; penalty for harbouring deserters from merchant-vessels.*) Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

Brothels

7. On the complaint of three or more householders that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint;

and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it;

and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

8, 9. (*Licenses for retail sale of spirituous or fermented liquors.*) Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

of 1857.]

(Secs. 10-12.)

10. Whoever, being the owner or occupier, or having the use of any house, room or place, keeps or uses the same as a common gaming-house¹;

Penalty for
owning or
keeping, or
having charge
of, a gaming-
house, &c.

and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house¹;

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used;

and whoever advances or furnishes money for the purpose of gaming¹ with persons frequenting such house, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

11. Whoever is found in any such house, room or place, playing or gaming¹ with cards, dice, counters, money or other instruments of gaming,² or

Penalty for
being
found
playing in
a gaming-
house

is found there present for the purpose of gaming,¹ whether playing for any money, wager, stake or otherwise,

shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and any person found in any common gaming-house¹ during any gaming¹ or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming¹.

12. If the Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house¹, he may, by his warrant, give authority to any superior officer of police

Magistrate
may
authorize
certain
police-
officers to
enter a
gaming-
house for
the purpose
of search
and seizure.

to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place,

and to take into custody all persons whom he finds therein whether or not then actually gaming¹,

and to seize all instruments of gaming¹, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming¹ which are found therein,

and to search all parts of the house, room or place which he shall have so entered when he has reason to believe that any instruments of gaming¹ are concealed therein, and also the persons of those whom he so takes into custody,

and to seize and take possession of all instruments of gaming¹ found upon such search.

¹ For definitions of "common gaming-house," "gaming" and "instruments of gaming" see s. 59, post, p. 377.

(Secs. 13-19.)

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.

13. On conviction of any person for keeping any such common gaming-house¹ or being present therein for the purpose of gaming,¹ all the instruments of gaming¹ found therein shall be destroyed by order of the Magistrate;

who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming¹, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to informer.

14. The Magistrate may direct any portion, not exceeding one-fourth of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Gambling in the streets

15. A police-officer may apprehend without warrant any person found gaming¹ with cards, dice, counters, money or other instruments of gaming¹ in any public street, place or thoroughfare;

and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and such instruments of gaming¹ and money shall be forfeited.

16, 17. (*Pawnbrokers, etc., to report stolen property; pawnbrokers, etc., when to be deemed receivers of stolen goods.*) *Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).*

Manufacture or possession of gunpowder

18. Whoever manufactures gunpowder,

or, without a license from the Magistrate, has in his possession in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds,

shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Magistrate for sale and deposit of gunpowder, etc.

19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds on such conditions, and for such term not exceeding one year, as shall be specified in the license;

and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

¹For definitions of "common gaming-house," "gaming," and "instruments of gaming," see s. 59, *post*, p. 377

of 1857.]

(Secs. 20-32.)

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort,

Penalty for drunkenness, or riotous or indecent behaviour in public.

and whoever is guilty of violent behaviour in any police-office,

shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Penalty for committing nuisance in streets.

22. Whoever in any public road, street, thoroughfare or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms,

Beggars.

or whoever seeks for or obtains alms by means of any false statement or pretences,

shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

23. Whoever, in any public street, road, thoroughfare or place of public resort, commits any of the following offences shall be liable to a fine not exceeding twenty rupees:—

Penalty for the following offences in public streets, etc.—

i.—Whoever drives or rides any animal or drives any vehicle in a manner so rash or negligent as to indicate a want of due regard for the safety of others;

careless or negligent driving or riding:

ii.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person, horse or other animal:

letting loose horses, ferocious dogs, etc.:

iii.—Whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control:

leaving cart, etc., without control:

iv.—Whoever fastens any animal so as to cause obstruction or danger to passengers:

obstruction to passengers by fastening animals: ill-treating animals:

v.—Whoever cruelly beats, abuses or tortures any animal:

vi.—Whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

lighting fires and discharging guns, fire-works etc.

24. (*Beating drums, tomtoms, etc.*) Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).

25 to 32. (*Penalty for depositing dirt on street, &c.; allowing sewerage to flow on street; future obstructions in street taking up pavement; removal of projections from houses*

(Secs. 33-54.)

houses projecting to be set back when taken down; power to trim hedges bordering on roads.) Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).

33 to 37. (*Houses in dangerous state; sale of materials of such houses; penalty for not removing filth; filthy houses, etc.; filthy cattle-stalls, etc.) Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).*

38. (*Licensing of public necessaries.) Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).*

39. (*Neglecting private drains, etc.) Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).*

40 to 45. (*Penalty for fouling water; power to fill up unwholesome tanks; power to drain off stagnant pools; penalty for not lighting deposits of building materials or excavations; enclosing of dangerous places; penalty for establishing slaughter-houses without license.) Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).*

46. (*Unclean slaughter-houses.) Rep. by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884).*

47 to 50. (*Offensive trades; burial and burning grounds; stray dogs.) Rep. by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876).*

51. Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

52. Any police-officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

53. Every person taken into custody without a warrant by a police-officer under this Act shall be taken to the nearest police-office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties for his appearance before the Magistrate.

Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

54. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons, or, if he see sufficient cause for so doing, may issue a warrant for his apprehension.

Police-officer may arrest without warrant on view of offence

Police-officer may take into custody, without warrant, persons charged with aggravated assault, recently committed

Persons taken into custody by a police-officer without warrant may be detained in police-office until brought before Magistrate or bailed.

Procedure on information or complaint laid before the Magistrate of an offence against this Act.

of 1857.]

(Secs. 55-59.)

In all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence.

55. (*Recovery of costs or expenses.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

56. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

Jurisdiction

57. All fines imposed and levied under this Act shall be applied in aid of any fund applicable to police and conservancy purposes in the said station;

Application of fines

and all costs and expenses which the Magistrate is hereby authorized to incur shall be paid from and repaid to such fund; or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said station.

58. (*Supersession of Act 21 of 1841.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

59. In the construction of this Act,

Interpretation

“common gaming-house” shall include any house, tent, room, space or walled enclosure in which ram-gambling, that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of the person owning, occupying, using or keeping such house, tent, room, space or enclosure;

“gaming” shall include ram-gambling; and

“instruments of gaming” shall include books or registers in which ram-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of ram-gambling.]

¹ The words “Provided also that no appeal shall be from any order of a Magistrate passed with the sanction of the Lieutenant-Governor of Bengal under section 49 of this Act,” which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

² The words “suburbs or towns,” which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ Clauses as to number and gender, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 43 in General Acts, 1887-97, Ld. 1909, p. 580.

⁴ These three definitions were added by the Bengal Ram-gambling Act, 1897 (Ben. Act 3 of 1897), s. 3, printed in Vol. III of this Code. The Bengal Cotton-gambling Ordinance, 1912 (*post*, p. 799), declares that the definitions “gaming,” “instruments of gaming,” and “common gaming-house” in section 59 of the present Act shall respectively be deemed to include—

cotton-gambling (that is to say, wagering on a number to be arrived at by a manipulation of figures showing rates for the sale of cotton or other marketable commodity),
books or registers in which cotton-gambling wagers are entered, all other documents containing evidence of such wagers, and anything used as a means of cotton gambling, and
any house, room, tent, enclosure, vehicle, vessel or place in which cotton-gambling is carried on for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel or place.

The Ordinance was promulgated on the 13th December, 1912, and its operation is limited to a maximum period of six months from that date—see the Indian Councils Act, 1861 (Act 25 of 1861, c. 67), s. 23, in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 347.

(Schedule.)

¹SCHEDULE

Of places included in the ² Station of Howrah

STATION OF HOWRAH.

Howrah (including)

Panchānantalā.
 Julāhāpārā.
 Chāndmāri (with Tandel Bāgān).
 North Betrā.
 South Betrā.
 Ichāpur.
 Saunpur.
 Golādāngā,
 Rāmkrishmapur.
 Khurāt (with Kasondiyā).
 Chakarber.
 Santrāgāchhi.
 Sathgharra.
 Gudār Hāt (with Kinkar Chatterjea's Hāt).
 Battore.

Sibpur (with Baji Sibpur, Majerhāt, Bharpāra, Bhattatalā,
 Sriharinaupārā, Bishop's College and Company's
 Botanical Garden).

Padmapukhar.
 South Baksarā.
 North Baksarā.

Salkiya (including)

Bāndāghāt (with Haraganj and Bānurjyapāra).
 Ghosery (with Bhāt Bāgān).
 Mālipānchgharā.
 Barrackpore.
 Bellur.
 Naksha.
 Chakpāra.
 Nallua.
 Belgāchhiyā (with Paikān Belgāchhiyā).
 Bāhmangachhi.
 Chaurāsta (with Dharmtalā, Goghātā and Babu
 dāngā).
 Golābārī (with Filkhāna).

¹ This Schedule is referred to in section 1, *ante*, p. 371.

² The words "Suburbs of Calcutta and," which were repealed by the Repealing Act, 1871 (16 of 1874), are omitted.

³ The part of this Schedule which was headed "Suburbs of Calcutta" was repealed by the Repealing Act, 1871 (16 of 1874), and is omitted.

ACT 31 OF 1858

(THE BENGAL ALLUVIAL LAND SETTLEMENT ACT, 1858).¹

(24th August, 1858.)

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.

Whereas for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land: It is enacted as follows:—

1. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue-authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the *jama* of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former *jama* of the original estate.

Addition of revenue assessed upon alluvial land to *jama* of original estate

If the proprietor or proprietors object to such an arrangement, or if the Revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate *jama*, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement.

When separate settlement to be made

The separate settlement may be permanent, if the settlement of the original estate is permanent.

2. Nothing contained in the preceding section shall affect the rights of any under-tenant in any alluvial land under the provisions of clause 1, section 4, Regulation 11, 1825.²

Rights of under-tenants in alluvial land

¹ **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 733.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see the title*.

It has been declared, by the Laws Local Extent Act, 1871 (15 of 1871), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1871 (14 of 1871), s. 3, to be in force in West Jalpauri, in the Jalpauri district—*see* Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² This includes the present Presidency of Fort William in Bengal and other territories.

³ The Bengal Alluvion and Diluvion Regulation, 1825. It is printed *ante*, p. 279.

(Sec. 3.)

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation 7, 1822¹; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate.

The provisions of the said Regulation¹, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

3. (*Separate settlements heretofore made; saving of rights.*)
Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

¹ The Bengal Land-revenue Settlement Regulation, 1862. It is printed *ante*, p. 217.

ACT 5 OF 1859

(THE BENGAL GHATWALI LANDS ACT, 1859)¹.

(4th March, 1859.)

An Act to empower the holders of *ghatwali* lands in the district of Birbhum to grant leases extending beyond the period of their own possession.

Whereas it has been held that the *ghatwals* of the district of Birbhum who pay the revenue of their lands directly to Government under the provisions of Regulation 29, 1811², of the Bengal Code have not the power of alienating their lands;

Preamble

And whereas, for the development of the mineral resources of the country in which the said *ghatwali* lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands;

It is enacted as follows:—

1. *Ghatwals* holding lands in the district of Birbhum under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands;

Right of
ghatwals of
Birbhum to
grant leases

Provided that no lease of *ghatwali* lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works, and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Proviso

2. If any of the said *ghatwali* lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

Court of
Wards and
Revenue-
authorities
have like
power in
certain ca

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I.—*see post*, p. 733.

² LOCAL EXTENT.—This Act was passed only for the district of Birbhum—*see the Code* and § 1.

³ The Bengal Ghatwali Lands Regulation, 1811. It is printed *ante*, p. 133.

ACT 10 OF 1859

(THE BENGAL RENT ACT, 1859)

ARRANGEMENT OF SECTIONS

PREAMBLE

SECTIONS.

1. (*Repealed*)
2. *Raiyats* entitled to *patta*
3. *Raiyats* holding land at fixed rates to receive *pattas*
4. If rent of land be not changed for twenty years
5. *Raiyats* having right of occupancy, but not holding at fixed rates, to receive *pattas*
6. Right of occupancy of *raiya* cultivating or holding land for twelve years
7. Saving of terms of written contracts
8. *Pattas* to *raiya*s not having rights of occupancy
9. Person granting *patta* entitled to counterpart engagement
10. Exactions in excess of rent or receipt withheld
Form of receipt
11. Landholder not to compel attendance of tenant for adjustment of rent, etc.
Payment of rent how enforced
12. Damages for extorting payment of rent by dross
13. Enhancement of rent of *raiya* holding without, or after expiry, etc., of written engagement
14. Mode of contesting enhancement of rent.
15. Dependent *talukdar*, etc., holding at fixed rent without change since permanent settlement, not liable to enhancement
16. Rent of *talukdar*, etc., not changed for twenty years to be *prima facie* evidence of occupancy at that rent since permanent settlement
17. Rent of *raiya* having right of occupancy not to be enhanced unless—
rate paid by him is below that prevailing in adjacent places;
value of land, etc., has increased, independently of *raiya*;
quantity of land held by *raiya* is greater than he has paid rent for.
18. When *raiya* may claim abatement of rent.
19. Relinquishment of land by *raiya* after notice.
20. What to be deemed arrear of rent.
21. Liability of *raiya* to be ejected for arrear due.
Proviso.
22. Liability of farmer to have lease cancelled for arrear adjudged due
Proviso.
23. Cognizance of suits under Act.
24. Suits by *zamindars* against agents for money or accounts.
25. Ejection of cultivators, farmers, etc., by *zamindars*.
Proviso.
26. (*Repealed*)
27. Registry of transfers of *taluks*, etc.
Proviso.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against *sarbarahkars* or *talukdars* of estates held *khas*.
30. Commencement of—
suits generally ;
31. suits for grant of *pattas*, etc. ;
32. suits for arrears of rent
Proviso.
33. Suits against agents for money, papers or accounts.
Proviso.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom presented.

SECTION.

36. Verification of statement.
Punishment for false verification.
37. (*Repealed.*)
38. Documentary evidence to be produced by plaintiff.
39. Production of document required by plaintiff from defendant.
40. (*Repealed.*)
41. Plaint in suit for ejectment of *raiyat*, etc., or for recovery of occupancy or possession of land, etc.
42. Statement may be returned or allowed to be amended.
43. Issue of summons ; personal attendance of defendant may be required.
44. Day to be specified in summons how fixed.
Defendant to produce necessary documents, and bring witnesses willing to attend without process.
45. Summons how served.
46. Endorsement by *nazir* on summons.
47. Execution of process in other district.
48. Cost of serving summons or warrant to be deposited.
49. Warrant of arrest in what cases issued.
50. Procedure after arrest of defendant.
51. Procedure on defendant being brought before Collector.
Form of security-bond.
52. Procedure if warrant cannot be served.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on day of trial.
55. When Collector to pass judgment by default ; and when to decree upon admission.
Proviso.
56. If plaintiff only appear, Collector may proceed *ex parte*.
57. Defendant appearing at postponed hearing may be heard in answer.
58. Revival, reversal and alteration of decrees *ex parte* or by default.
59. On appearance, parties to be examined by Collector, and may cross-examine each other.
60. Examination of parties, etc.
61. Witnesses to be examined.
62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make decree if no further evidence required.
64. Consequence of inability of agent to answer.
65. If necessary, Collector to record issue, and to fix day for hearing further evidence.
66. Parties to produce witnesses on day of trial, or Collector, on application, to summon witness.
67. Rules regarding attendance, examination, etc., of witnesses.
68. Consequence of parties not appearing on day fixed for trial of issue.
69. Suits by and against *naibs*, *gumasthas*, etc.
70. Personal attendance when not required.
71. Employment of authorized agents or *mukhdars*.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local inquiry to be made.
74. (*Repealed.*)
75. No interest on deposits.
76. Collector when to fix term for which *patta* is to be granted.
Proviso.
77. In suits for rent, third person claiming to be made party.
Proviso.
78. Suits for ejectment or cancelment of lease.
79. (*Repealed.*)
80. If person required by decree refuse to grant *patta*, Collector may do so.
81. Refusal to execute *kabuliyat* as required by decree.
82. Mode of executing decree for ejectment or re-instatement of *raiyat*.
Punishment for obstructing execution.
83. Execution of decree for cancelment of lease or ejectment or re-instatement of farmer or tenant.

of 1859.]

Sections.

84. When judgment debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. (*Repealed.*)
87. Application for execution against moveable property.
88. Duration of warrant.
89. Second and successive warrants.
90. After one year execution not to issue without notice.
91. Notice of execution against representative.
92. Execution after three years from date of judgment.
93. Warrant against person.
Limit of imprisonment.
If arrest be for non delivery of accounts.
94. No second imprisonment under same judgment.
95. Deposit of diet money.
96. Payment of diet money in advance during imprisonment.
97. Diet money to be costs in suit.
98. List of property taken in execution and proclamation of sale.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized, if third party claim interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish right liable to compensate judgment-creditor.
103. No appeal from order under sections 101, 102.
Proviso.
104. Sale not vitiated by irregularity in publishing or conducting.
Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.
Proviso.
107. Mode of adjudicating claims.
108. Execution of decrees given in favour of sharers in undivided estates or tenure.
109. If execution against immoveable property when money-decree cannot be otherwise satisfied.
110. Execution —
against house or building;
against saleable under-tenure;
if it be an estate or a share of an estate.
111. Consequence of objection offered before sale of immoveable property.
112. Produce of land held hypothecated for rent.
Arrears of rent recoverable by distraint under following rules.
Cultivators who have given security exempt from distraint.
Proviso.
113. Distraint when barred.
114. Power of distraint of managers under Court of Wards, etc.
Proviso.
115. Standing crops and crops gathered but not stored liable to distraint.
116. Defaulter to be served with written demand, etc., before or at time of distraint.
117. Distress proportionate to arrear.
List of property served on owner.
118. Standing crops, etc., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.
119. Distrainer may apply for aid to Collector in case of resistance.
120. Servants employed to distrain to be furnished with written authority.
121. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.
122. Application for sale.
123. Form of application.
Deposit of cost of notice to defaulter.

SECTION.

124. Procedure of *amin* on receipt of application.
125. *Amin* to suspend sale on receipt of Collector's certificate of institution of suit.
126. Suit to contest distrainer's demand before notice of sale.
127. Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.
128. On expiration of period fixed in proclamation of sale if institution of suit to contest demand not certified, sale may proceed.
129. Place and manner of sale of distrained property.
130. If fair price not offered, sale may be postponed, and shall be then completed whatever price offered.
131. Payment of purchase-money.
132. Disposal of proceeds of sale.
133. Officers holding sales prohibited from purchasing.
134. Irregularities to be reported to Collector.
135. Officer not to sell, if he find that defaulter has not received notice.
135. Recovery of expenses if *amin* proceeds to place of sale and no sale takes place.
136. Proceedings of *amins*, etc., subject to revision and orders of Collectors.
137. Second proclamation of sale.
138. Procedure after institution of suit to contest demand.
139. Owner of property distrained for arrears alleged to be due from another may institute suit against distrainer, etc.
- Proviso.
140. Procedure if right to distrain be disputed.
141. Persons prevented from suing in time to save property from sale may sue for damages.
142. Also persons aggrieved by illegal act of distrainer.
143. Unlawful distraint.
144. Time for commencing suits for damages.
145. Resistance of distraint.
146. Service of process.
147. Resistance of process.
148. Place of holding Court.
- Proviso.
149.)
150.) (*Repealed.*)
151. Control of Collectors and Deputy Collectors.
152. No appeal from orders of Collectors and Deputy Collectors in certain cases.
152. Time for presenting appeals from orders.
153. When appeal allowed from judgment of Collector for money below one hundred rupees.
154. Rehearing in suits not open to appeal.
155. Appeal from decision of Deputy Collector.
156. Petition of appeal.
157. Procedure in appeal.
158. Re-admission of appeal.
159. Judgment in appeal.
160. In what suits appeal to lie to *Zila* Judge.
- to *Sadar* Court.
161. Presentation and hearing of appeals.
162. (*Repealed.*)
163. No jurisdiction in Collector as to lands beyond district.
164. Deputy Collector when not to exercise judicial powers.
165. Powers to be exercised by Assistants to Collectors.
166. Saving of rights of proprietors as to tenures under Reg. 8, 1819.
167. (*Repealed.*)
168. "Civil Jail."
- "Nazir."

SCHEDULE.

Forms A to G

ACT 10 OF 1859

(THE BENGAL RENT ACT, 1859)¹.

(29th April, 1859.)

**An Act to amend the law relating to the recovery of rent
in the Presidency of Fort William in Bengal².**

Whereas it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of *raiyats* with respect to the delivery of *pattas* and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

1. (*Laws repealed and modified.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. Every *raiyat* is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a *patta* containing the following particulars:—

the quantity of land; and, where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

and any special conditions of the lease;

if the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 733.

LOCAL EXTENT.—This Act applied originally to the whole of Bengal as constituted in 1859 (see the title and section 3), but it has been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (post, p. 492), everywhere except “the town of Calcutta, the Division of Orissa and the Scheduled Districts.”

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notifications extending the Act of 1885 to the Jalpaiguri district, the repeal has taken effect in that district.

The application of Act 10 of 1859 to the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), see post, p. 790.

The only portion of the present Presidency of Fort William in Bengal in which Act 10 of 1859 appears to be in force is the Darjeeling District.

AMENDING ACT.—Section 21 of the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), printed in Vol. II of this Code, declares that that Act is to be read with, and taken as part of, Act 10 of 1859.

APPEALS.—As to the appointment of Magistrates to hear appeals under Act 10 of 1859, see the Bengal Rent (Appeals) Act, 1867 (Ben. Act 5 of 1867), s. 5, in Vol. II of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 3-10.)

Raiyats holding land at fixed rates to receive pattas.

If rent of land be not changed for twenty years.

Raiyats having right of occupancy, but not holding at fixed rates, to receive pattas.

Right of occupancy of raiyat cultivating or holding land for twelve years.

Saving of terms of written contracts.

Pattas to raiyats not having rights of occupancy.

Person granting patta entitled to counterpart-engagement.

Exactions in excess of rent or receipt withheld.

3. *Raiyats* who, in the provinces of Bengal, [Bihar, Orissa,]¹ hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive *pattas* at those rates.

4. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a *raiayat* in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

5. *Raiyats* having rights of occupancy, but not holding at fixed rates as described in the two preceding sections, are entitled to receive *pattas* at fair and equitable rates.

In case of dispute, the rate previously paid by the *raiayat* shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

6. Every *raiayat* who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under *patta* or not, so long as he pays the rent payable on account of the same; but this rule does not apply to *khamar*, *nijot* or *sir* land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a *raiayat* having a right of occupancy.

The holding of the father or other person from whom a *raiayat* inherits shall be deemed to be the holding of the *raiayat* within the meaning of this section.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a *raiayat* when it contains any express stipulation contrary thereto.

8. *Raiyats* not having rights of occupancy are entitled to *pattas* only at such rates as may be agreed on between them and the persons to whom the rent is payable.

9. Every person who grants a *patta* is entitled to receive from the person to whom the *patta* is granted a *kabuliyat* or counterpart-engagement in conformity with the terms of the *patta*.

The tender to any *raiayat* of a *patta* such as the *raiayat* is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a *kabuliyat* from such *raiayat*.

10. Every under-tenant or *raiayat* from whom any sum is exacted in excess of the rent specified in his *patta*, or payable under the provisions of this Act, whether as *abwab* or under any other pretext, and every under-tenant, *raiayat* or cultivator

¹ The words "and Benares," which were repealed by the Repealing and Amending Act, 1903 (1 of 1908), are omitted.

of 1859.]

(Secs. 11-13.)

from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Form of receipt.

11. The power heretofore vested in *zamindars* and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Landholder not to compel attendance of tenant for adjustment of rents, etc. Payment of rent how enforced.

12. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or *raiyat* by illegal confinement or other duress, such under-tenant or *raiyat* shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

Damages for extorting payment of rent by duress.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

13. No under-tenant or *raiyat* who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or *raiyat*, in or before the month of *Chaitra*¹ specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed.

Enhancement of rent of *raiyat* holding without or after expiry, etc., of written engagement.

Such notice shall be served by order of the Collector on the application • • •² of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or *raiyat*.

If for any reason the notice cannot be served personally upon the under-tenant or *raiyat*, it shall be affixed at his usual place of residence, or, if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the *mal-cutcherry* of such land or other conspicuous place thereon, or at the village

¹ The provisions of s. 13 are not to affect settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), *ante*, p. 217, or under any other law for the time being in force for the regulation of settlements of land-revenue—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

² The month of *Chaitra* corresponds with the last part of March and the first part of April.

³ The words "which may be on plain paper," which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted.

(Secs. 14-18.)

chauri or *chaupal*, or at some other conspicuous place in the village in which the land is situate.

Mode of
contesting
enhancement
of rent.

¹14. Any under-tenant or *raiyyat* on whom such notice as aforesaid has been served may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent
talukdar, etc.,
holding at
fixed rent
without
change since
permanent
settlement,
not liable to
enhancement.

15. No dependent *talukdar* or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the *raiyyats*, who, in the provinces of Bengal, [*Bihar, Orissa*] . . . holds his *taluk* or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation 8, 1793³, or in any other law to the contrary notwithstanding.

Rent of
talukdar, etc.,
not changed
for twenty
years to be
prima facie
evidence of
occupancy at
that rent since
permanent
settlement.

16. Whenever, in any suit under this Act, it shall be proved that the rent at which a *taluk* or other tenure is held in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such *taluk* or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Rent of *raiyyat*
having right
of occupancy
not to be
enhanced
unless—
rate paid
by him is
below that
prevailing in
adjacent
places;
value of
land, etc.,
has increased,
independently
of *raiyyat*;
quantity of
land held by
raiyyat is
greater than
he has paid
rent for.
When
raiyyat may
claim
abatement
of rent.

¹17. No *raiyyat* having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely:—

that the rate of rent paid by such *raiyyat* is below the prevailing rate payable by the same class of *raiyyats* for land of a similar description and with similar advantages in the places adjacent;

that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the *raiyyat*;

that the quantity of land held by the *raiyyat* has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

18. Every *raiyyat* having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the *raiyyat*, or if the quantity of land held by the

¹ The provisions of ss. 14 and 17 are not to affect settlement proceedings under the Bengal Land revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), *ante*, p. 217, or under any other law for the time being in force for the regulation of settlements of land-revenue—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

² The words "and Benares," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ The Bengal Decennial Settlement Regulation, 1793. Section 51 is printed *ante*, p. 37.

of 1859.]

(Secs. 19-23.)

*raiya*t has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

19. Any *raiya*t who desires to relinquish the land held or cultivated by him shall be at liberty to do so provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent in or before the month of *Chaitra*¹ of the year preceding that in which the relinquishment is to have effect.

Relinquish-
ment of
land by
*raiya*t
after
notice.

If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land, or his agent refuse to receive any such notice and to sign a receipt for the same, the *raiya*t may make an application . . . to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in section 13.

20. Any instalment of rent which is not paid on or before the day when the same is payable according to the *patta* or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve *per centum per annum*.

What to
doomed
arrear of
rent.

21. When an arrear of rent remains due from any *raiya*t at the end of the Bengal year,² or at the end of the month of *Jeth*³ of the [*Fasli* or] *Wilaityati* year, as the case may be, such *raiya*t shall be liable to be ejected from the land in respect of which the arrear is due:

Liability
of *raiya*t
to be
ejected
for arrear
due.

Provided that no *raiya*t having a right of occupancy or holding under a *patta* the term of which has not expired shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

22. When an arrear of rent shall be adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled and the leaseholder to be ejected:

Liability of
farmer to have
lease cancelled
for arrear
adjudged
due.

Provided that no such lease shall be cancelled nor the leaseholder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

23. (1) All suits for the delivery of *pattas* or *kabuliyats* or for the determination of the rates of rent⁴, which such *pattas* or *kabuliyats* are to be delivered⁵;

Cognizance
of suits under
Act.

¹ The month of *Chaitra* corresponds with the last part of March and the first part of April.

² The words "on plain paper", in s. 19, which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted.

³ i.e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

⁴ The month of *Jeth* corresponds with the last part of May and the first part of June.

⁵ A suit may be instituted under section 23 (1) against a purchaser of an *under-tenure* sold under the Bengal Rent Recovery (Under-tenures) Act, 1885 (Ben. Act 6 of 1885)—see s. 17 of that Act, in Vol. II of this Code.

(Secs. 24, 25.)

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either *khirai* or *lakhiraj*, or on account of any rights of pasturage, forest-rights, fisheries or the like;

(5) all suits to eject any *raiyat* or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a *raiyat* may be liable to ejectment or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm or tenure, from which a *raiyat*, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits arising out of the exercise of the power of distraint conferred on *zamindars* and others by sections 112 and 114 of this Act, or out of any acts done under colour of the exercise of the said power as hereinafter particularly provided,

shall be cognizable by the Collectors of land-revenue and shall be instituted and tried under the provisions of this Act and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other officer or in any other manner.

Suits by
zamindars
against
agents for
money or
accounts.

24. Suits by *zamindars* and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents, in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of
of cultivators,
farmers, etc.,
by *zamindars*.

25. If any *zamindar* or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to inquire into the case and pass orders in the manner provided for suits under this Act:

Provided.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the

of 1859.]

(Secs. 26-28.)

lease be of the kind denominated *thika*, *zaripeshgi*, or the like, in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the repayment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the civil Court.

26. (*Measurement of lands.*) *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862). See now sections 9 to 11 of that Act, in Vol. II of this Code.*

27. All dependent *talukdars* and other persons possessing a permanent transferable interest in land intermediate between the *zamindar* and the cultivator are required to register in the *sarishla* of the *zamindar* or superior tenant to whom the rents of their *taluks* or tenures are payable, all transfers of such *taluk* or tenures or portions of them, by sale, gift or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance.

Registry of
transfers of
taluks, etc.

And every *zamindar* or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions.

If any *zamindar* or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferee or successor may make application to the Collector, and the Collector shall thereupon proceed to inquire into the case in the manner provided for suits under this Act, and, if no sufficient grounds are shown for the refusal, shall pass an order enjoining the *zamindar* or superior tenant to admit to registry and otherwise give effect to such transfer or succession:

Provided that no *zamindar* or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the *zamindar* or superior tenant.

28. So much of section 10, Regulation 19, 1793,¹ and section 24, Regulation 12, 1865², as authorizes and requires proprietors and farmers of estates and dependent *taluks*, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said sections, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or *taluk* in which it may be situate, is repealed; and any

Applications
to dispossess
grantees of
land exempt
from revenue.

¹ The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 47.

² The words and figures "section 10, Regulation 41, 1795, section 6, Regulation 31, 1808, section 21, Regulation 8, 1806," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ The Cuttack Land-revenue Regulation, 1806. It is printed *ante*, p. 97.

(Secs. 29-33.)

proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act.

Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued.

Suits by or against *sarbarahkars* or *tahsildars* of estates held *khas*.

29. All suits which under the provisions of this Act may be brought by or against *zamindars* or other persons in the receipt of the rent of land may be brought by or against *sarbarahkars* or *tahsildars* of estates held under *khas* management, whether such estates are the property of Government or of individuals.

Commencement of—
suits generally;

suits for grant of *pattas*, etc.;

suits for arrears of rent.

30. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

31. Suits for the delivery of *pattas* or *kabuliyats*, and for the determination of the rates of rent at which such *pattas* or *kabuliyats* are to be delivered, may be instituted at any time during the tenancy.

32. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year,³ or from the last day of the month of *Jeth*⁴ of the [*Fasli* or] *Wilayati* year, in which the arrear claimed shall have become due.

Provided

that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under section 13, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year³, or of the month of *Jeth*⁴ of the [*Fasli* or] *Wilayati* year, on account of which such enhanced rent is claimed.

Suits against agents for money, papers or accounts.

33. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent may be brought at any time during the agency or within

¹ The words "If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² The remainder of s. 29, which was repealed by the Repealing and Amending Act 1903 (1 of 1903), is omitted.

³ The Bengal year ends with the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

⁴ The month of *Jeth* corresponds with the last part of May and the first part of June.

⁵ The words "For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1859.]

(Secs. 34-39.)

one year after the determination of the agency of such agent

Provided that, if the person having the right to sue shall by means of fraud have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person: but no such suit shall in any case² be brought at any time exceeding three years from the termination of the agency.

34. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim which shall contain the name, description and place of abode of the plaintiff, the name, description and place of abode of the defendant, so far as they can be ascertained, the substance of the claim and the date of the cause of action.

Proviso.

Mode of instituting suits. Form of plaint or statement of claim

35. The statement of claim shall be presented by the plaintiff or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Statement by whom presented.

36. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect:—

Verification of statement.

I, A. B., do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law³ for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification.

37. (*Statement of claim to be written on stamped paper.*)
Rep. by Act 36 of 1860.

38. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim.

Documentary evidence to be produced by plaintiff.

Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

39. If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim deliver to the

Production of document required by plaintiff from defendant.

¹ The words "or, in the case of claims now existing, within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

² The words "(except the case of claims now existing as aforesaid)," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ See now the Indian Penal Code (Act 46 of 1860), Ch. XI, in General Acts, 1834-67, Ed. 1909, p. 296.

(Secs. 40-46.)

Collector a description of the document in order that the defendant may be required to produce the same.

40. (*Form of plaint in suits for arrears of rent.*) *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

Plaint in suit for ejectment of *raiyat*, etc., or for recovery of occupancy or possession of land, etc.

41. If the suit be for the ejectment of a *raiyat*, farmer or tenant from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement shall describe (as circumstances may require), the extent, situation and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

Statement may be returned or allowed to be amended.

42. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

43. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.

44. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form (A) contained in the Schedule to this Act or to the like effect.

Summons how served.

45. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable, or, if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's office.

Endorsement by *nazir* on summons.

46. If the summons be served personally, the *nazir* shall endorse on the summons the fact of such service. If personal service be not effected, the *nazir* shall endorse on the summons

of 1859.]

(Secs. 47-49.)

the reason of not serving it personally, and how it has been served.

47. If the usual place of abode of the defendant be in another district the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Execution of process in other district.

48. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector.

Cost of serving summons or warrant to be deposited.

If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in section 146), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

49. If in any suit against an under-tenant or *raiyat* for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

Warrant of arrest in what cases issued.

When such application is presented, the Collector shall examine the plaintiff or his agent on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well-founded, and that if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant.

The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the Schedule to this Act or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent *taluk* or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

(Secs. 50-55.)

Procedure
after arrest
of defendant.

50. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

Procedure on
defendant
being brought
before
Collector.

51. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided: and, if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail, to be there detained until he shall furnish such security or deposit such sum as the Collector shall order.

Form of
security-
bond.

The security-bond shall be in the form (D) contained in the Schedule to this Act or to the like effect.

Procedure if
warrant
cannot be
served.

52. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own office and at the residence of the defendant fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensation
for arrest
applied for
without
reasonable
cause.

53. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Consequence
of neither
party
appearing on
day of trial.

54. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of actions.

When
Collector
to pass
judgment
by default;
and when to
decree upon
admission
Proviso.

55. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission, without costs.

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

of 1859.]

(Secs. 56-59.)

56. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agents, and, after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If plaintiff only appear, Collector may proceed *ex parte*

57. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Defendant appearing at postponed hearing may be heard in answer

58. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

Reversal, reversal and alteration of decrees *ex parte* or by default

But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed or at any earlier period, and shall show good and sufficient cause for his previous non-appearance and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

59. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other.

On appearance, parties to be examined by Collector, and may cross-examine each other.

If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence.

¹ An order of the Collector under s. 58, for setting aside a judgment, is final—see the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 13, in Vol. II of this Code.

(Secs. 60-66.)

Examination
of parties,
etc.

60. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

Witnesses
to be
examined.

61. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary
evidence to
be produced
by defendant

62. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After
examination
Collector
may make
decree if no
further
evidence
required.

63. If after the examination required by section 59 and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

Consequence
of inability
of agent to
answer.

64. If, on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and, if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

If necessary,
Collector to
record issue,
and to fix day
for hearing
further
evidence.

65. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties to
produce
witnesses on
day of trial,
or Collector,
on application,
to summon
witness.

66. The parties shall bring forward their witnesses on the day of trial, and, if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

of 1859.]

(Secs. 67-72.)

67. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witness and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Rules regarding attendance, examination, etc., of witnesses.

68. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 54.

Consequence of parties not appearing on day fixed for trial of issue

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

69. When suits under this Act are instituted or defended by *naibs*, *gumshastas* or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act by which the personal appearance or attendance of parties to a suit is or may be required shall be applicable to such *naibs*, *gumshastas* or other persons; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid.

Suits by and against *naibs*, *gumshastas*, etc

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

70. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public.

Personal attendance when not required.

71. Any party to a suit may employ an authorized agent or *mukhtar* to conduct the case on his behalf, but the appointment of such agent or *mukhtar* shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court.

Employment of authorized agents or *mukhtars*.

72. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason

Collector may grant time or adjourn hearing.

¹ As to the application of s. 67 to proceedings of the Collector under s. 10 of the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), see the latter enactment, in Vol. II of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ The words "and no fee for any agent shall be charged as part of the costs of suit in any case under this Act," which were repealed by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865), are omitted.

(Secs. 73-77.)

to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may
cause local
inquiry to be
made.

73. The Collector may at any stage of a case cause a local inquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local inquiry in person.

The provisions of the law for the time being in force relative to local inquiries by *amins* or commissioners under orders of the Civil Courts shall apply to any local inquiry made by any officer under this section, and so far as they are applicable to inquiries made by the Collector in person.

In the latter case the Collector, after completing the inquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

74. (*Payment of money into Court in satisfaction of demand.*) Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).

No interest on
deposits.

75. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Collector
when to fix
term for
which *patta*
is to be
granted.

76. If on the trial of a suit for the delivery of a *patta* instituted by a *raiyat* having a right of occupancy the parties do not agree as to the term for which the *patta* is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper:

Proviso.

Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government:

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the *patta* shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of *patta* shall be exclusively in the discretion of the person entitled to the rent of the land.

In suits for
rent, third
person
claiming to be
made party.

77. When, in any suit between a landholder and a *raiyat* or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the *raiyat* or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and

of 1859.]

(Secs. 78-83.)

enjoyment of the rent by such third person shall be inquired into and the suit shall be decided according to the result of such inquiry :

Provided always that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

78. Any person desiring to eject a *raiyat* or to cancel a lease on account of non-payment of arrears of rent may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment.

Provided.

Suits for ejectment or cancelment of lease.

In all cases of suits for the ejectment of a *raiyat* or the cancelment of a lease, the decree shall specify the amount of the arrear, and, if such amount together with interest and costs of suit be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

79. (*Judgment how to be pronounced.*) Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).

80. When a decree is given for the delivery of a *patta*, if the person required by the decree to grant such *patta* refuse or delay to grant the same, the Collector may grant a *patta* in conformity with the terms of the decree under his own hand and seal, and such *patta* shall be of the same force and effect as if granted by the person aforesaid.

If person required by decree refuse to grant *patta*, Collector may do so.

81. When a decree is given for the delivery of a *kabuliyat*, if the person required by the decree to execute such *kabuliyat* shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a *kabuliyat* executed by the said person.

Refusal to execute *kabuliyat* as required by decree.

82. If the decree be for the ejectment of any *raiyat* from land occupied by him, or for the re-instatement of any *raiyat* in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Mode of executing decree for ejectment or re-instatement of *raiyat*

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Punishment for obstructing execution.

83. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other

Execution of decree for cancelment of lease or ejectment or re-instatement of farmer or tenant.

(Secs. 84-91.)

occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

When judgment-debtor may be detained or imprisoned without issue of process of execution.

Liability of surety on failure to deliver judgment-debtor into custody.

84. If the decree be for arrears of rent or for money, papers or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security-bond given under section 51, the Collector may order that he be detained in or committed to the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

85. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

86. (*Issue of process of execution.*) *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

Application for execution against moveable property.

87. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of warrant.

88. Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

89. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

90. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

Notice of execution against representative.

91. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

of 1859.]

(Secs. 92-95.)

92. No process of execution of any description whatsoever shall be issued on a judgment under this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Execution after three years from date of judgment.

93. If a warrant issue for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector.

Warrant against person

If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree:

Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty rupees, or six calendar months when such amount does not exceed five hundred rupees, or two years in any other case.

Limit imprisonment.

If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the civil jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

If arrest be for non-delivery of accounts

94. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

No second imprisonment under same judgment

If the amount due under the decree do not exceed one hundred rupees, the Collector may declare such discharged person absolved from further liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

95. Any person applying for a warrant of arrest under section 49 or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas *per diem*, unless the Collector for any special reason

Deposit of diet-money.

(Secs. 96-103.)

direct that deposit be made at a higher rate, which shall not exceed four annas *per diem*.

Payment of
diet-money
in advance
during
imprisonment.

96. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money
to be costs in
suit.

97. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of
property
taken in
execution and
proclamation
of sale.

98. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his office.

Custody and
sale of
moveable
property
taken in
execution.

99. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

Until such sale the property shall be deposited in some fit place or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 129 to 133, so far as the same are applicable, shall be applied to sales under this section.

Collector may
stay sale of
moveable
property
seized if third
party claim
interest
therein.

100. If before the day fixed for the sale a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector to
adjudicate
such claims.

101. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit.

In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Claimant
failing to
establish right
liable to
compensate
judgment-
creditor.

102. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal
from order
under sections
101, 102.

103. No appeal shall lie from any order passed by the Collector under the two last preceding sections. But the party against whom the same may be given shall be at liberty to

of 1859.]

(Secs. 104-106.)

bring a suit in the Civil Court to establish his right at any time within one year from the date of the order :

Provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

104. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court :

Sale not vitiated by irregularity in publishing or conducting.

Provided such action be brought within one year from the date of sale.

Proviso.

105. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure and the tenure may thereupon be brought to sale in execution of the decree according to the rules¹ for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force.

Sale of transferable tenures in execution of decrees for arrears of rent.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 110 of this Act.

106. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector and allege that such third party and not the person against whom the decree has been obtained is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in section 100 for the examination of third parties, and if he sees sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to inquire into and adjudicate upon the claim :

If third party claim to be lawful possessor of tenure, Collector to stay sale and to inquire and adjudicate.

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the *sharishta* of the *zamindar* or superior tenant shall be recognised unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Proviso.

¹ For these rules, see the Bengal Rent Recovery Act, 1865 (Ben. Act 8 of 1865), ss. 4, et seq in Vol. II of this Code.

(Secs. 107-111.)

Mode of
adjudicating
claims.

107. In trying such claim the Collector shall be guided by the rules contained in his Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of
decrees given
in favour of
sharers in
undivided
estates or
tenures.

108. If a decree is given in favour of a sharer in a joint undivided estate, dependent *taluk* or other similar tenure for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or *taluk* or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case such under-tenure, if of the nature described in section 105, may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following sections.

If execution
against
immoveable
property
when money-
decree cannot
be otherwise
satisfied.

109. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Execution—
against
house or
building;

110. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 98 and 99 shall be applicable to the execution of such process.

against
saleable
under-
tenure;

If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If it be an
estate or a
share of an
estate.

If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estate for the recovery of demands recoverable by the same process as arrears of land-revenue.

Consequence of
objection
offered before
sale of
immoveable
property.

111. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in section 100 for the examination of third parties, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and

of 1859.]

(Secs. 112-115.)

proceed to inquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 107.

112. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and, when an arrear of rent as defined in section 20 of this Act is due from any cultivator of land, the *zamindar*, *lakhirajdar*, farmer, dependent *talukdar*, under-farmer or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules:

Produce of land held hypothecated for rent. Arrears of rent recoverable by distraint under following rules.

Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to distraint:

Cultivators who have given security exempt from distraint.

Provided also that no sharer in a joint estate, dependent *taluk* or other tenure in which a division of lands has not been made amongst the sharers shall exercise the power of distraint, otherwise than through a manager authorized to collect the rents of the whole estate, *taluk* or tenure on behalf of all the sharers in the same.

Proviso.

113. Distraint shall not be made for any arrear which has been due for a longer period than one year, nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Distraint when barred.

114. The power of distraint vested by section 112 in *zamindars* and other persons entitled to receive rent from cultivators of land may be exercised by managers under the Court of Wards, *sarbarahkars* and *tahsildars* of estates held under *khas* management, and other persons lawfully entrusted with the charge of landed property; and also by the *naibs*, *gumashtas* and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power-of-attorney in that behalf:

Power of distraint of managers under Court of Wards, etc.

Provided that, if any illegal act is committed by any such *naib*, *gumashta* or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Proviso.

115. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act.

Standing crops and crops gathered but not stored liable to distraint.

(Secs. 116-120.)

But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Defaulter to be served with written demand, etc., before or at time of distraint.

116. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, or, if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress proportionate to arrear. List of property served on owner.

117. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress, and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

Standing crops, etc., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.

118. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose.

If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Crops or products which from their nature do not admit of being stored may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

Distrainer may apply for aid to Collector in case of resistance.

119. If a distrainer shall be opposed or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an officer to support the distrainer in making the distraint.

Servants employed to distrain to be furnished with written authority.

120. When any person empowered to distrain property under section 112 or section 114 shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority * * * for the same, and the

* The words "(which may be on plain paper)," which were repealed by the Court-fees Act, 1870, (of 1870), are omitted.

of 1859.]

(Secs. 121-125.)

for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

121. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same and shall forthwith withdraw the distress.

Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.

122. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court *amin* or other officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public officer as the Local Government shall appoint for the purpose.

Application for sale

123. The application shall be in writing and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due and the date of the distress, and the place in which the distrained property is deposited.

Form of application.

Together with the application, the distrainer shall deliver to the Civil Court *amin* or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Deposit of cost of notice to defaulter.

124. Immediately on receipt of the application the Civil Court *amin* or other officer shall transmit a copy of it to the Collector; and shall serve a notice [which shall be in the form (G) contained in the Schedule to this Act or to the like effect] on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice.

Procedure of amin on receipt of application.

He shall at the same time send to the Collector, for the purpose of being put up in his office, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, the demand for which it is to be sold and the place where the sale is to be held.

125. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court *amin* or other officer, or if so requested shall deliver to the owner of the distrained property a certificate of the institution of such suit; and on such certificate being

Amin to suspend sale on receipt of Collector's certificate of institution of suit.

(Secs. 126-130.)

received by or presented to the *amin* or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before notice of sale.

126. A person whose property has been distrained in the manner hereinbefore provided may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale.

When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding section.

If thereafter application for the sale of the property is made to the Civil Court *amin* or other officer, he shall transmit a copy of the application to the Collector and suspend further proceedings pending the decision of the case.

Distress with-
drawn on re-
ceipt of Col-
lector's certi-
ficate of exe-
cution of bond
to pay amount
due.

127. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same and, upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, the property shall be released from distraint.

On expiration
of period fixed
in proclama-
tion of sale if
institution of
suit to contest
demand not
certified, sale
may proceed.

128. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court *amin* or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and
manner of sale
of distrained
property.

129. The sale shall be held at the place where the distrained property is deposited, or at the nearest *ganj*, *bazar*, *hath* or other place of public resort, if the Civil Court *amin* or other officer should be of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and, if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price
not offered,
sale may be
postponed,
and shall be
then com-
pleted
whatever
price offered.

130. If on the property being put up for sale a fair price in the estimation of the officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market-day if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed at whatever price may be offered for the property.

of 1859.]

(Secs. 131-135.)

131. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the officer holding the sale shall think necessary; and in default of such payment the property shall be put again and sold.

Payment of purchase-money.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

132. From the proceeds of the sale of distrained property the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government.

Disposal of proceeds of sale.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 124 to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereon up to the day of sale, and if there be any overplus, it shall be delivered to the person whose property shall have been sold.

133. Officers holding sales of property under this Act and all persons employed by or subordinate to such officers are prohibited from purchasing either directly or indirectly any property sold by such officers.

Officers holding sales prohibited from purchasing.

134. Civil Court *amins* and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under colour of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court *amin* or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under section 124 or pass such other order as he may think proper.

Irregularities to be reported to Collector.

Officer not to sell, if he find that defaulter has not received notice.

135. When a Civil Court *amin* or other officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court *amin* or other officer, the charge of one anna in the rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property.

Recovery of expenses if *amin* proceeds to place of sale and no sale takes place.

If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by

(Secs. 136-138.)

the owner of the property and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector:

Provided always that in no case shall a larger amount than ten rupees be recoverable under this section.

Proceedings
of *amins*, etc.,
subject to
revision and
orders of
Collectors.

136. All proceedings under this Act of the Civil Court *amins* and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the ¹[Board] of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court *amins* and other officers as may be thought necessary.

Second
proclamation
of sale.

137. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court *amin* or other officer authorizing the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court *amin* or other officer, such *amin* or officer shall publish a second proclamation in the manner prescribed in section 124, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with the cost of distress be paid immediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure
after
institution of
suit to contest
demand.

138. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favour of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding section if the distress has not been withdrawn, and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

If, on the other hand, the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

¹ This word "Board" in s. 136 was substituted for the word "Boards" by the Repealing and Amending Act, 1904 (1 of 1908), Sch. II—see *post*, p. 749.

of 1859.]

(Secs. 139-141.)

139. If any person shall claim, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the property in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

Owner of property distrained for arrears alleged to be due from another may institute suit against distrainer, etc.

When any such suit is instituted, the property may be released upon security being given for the value of the same.

If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require :

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Provido.

140. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Procedure if right to distrain be disputed.

Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

141. If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property, as the case may be, within the period allowed by sections 124 and 139, and his property is, in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property..

Persons prevented from suing in time to save property from sale may sue for damages.

(Secs. 142-146.)

Also persons
aggrieved by
illegal act of
distrainer.

142. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful
distrain.

143. If any person not empowered to distrain property under sections 112 and 114 of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under colour of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale.

The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit :

Time for
commencing
suits for
damages.

144. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of
distrain

145. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested¹, and, if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector.

If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

Service of
process.

146. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the *nazir* or by such other officer as

¹ As to the immediate disposal of the case, where a person is arrested under s. 145, see the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 18, in Vol. II of this Code.

of 1859.]

(Secs. 147-151.)

the Collector may direct at the cost of the party at whose instance it issued.

The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued :

Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

147. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice. Resistance of process.

When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and, if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

Orders passed by Collectors under this section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of section 151.

148. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction : Place of holding Court.

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place. Proviso.

149. (*Agents or mukhtars.*) *Rep. by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).*

150. (*Powers of Deputy Collectors.*) *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

151. In the performance of their duties under this Act, the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the ¹[Board] of Revenue²; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate. Control of Collectors and Deputy Collectors.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the No appeal from orders of Collectors and Deputy Collectors in certain cases.

¹ This word "Board," in s. 151, was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 749.

² As to the exercise of functions of the Board of Revenue by other authorities, *see* references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1); *ante*, p. 210.

(Secs. 152-157.)

execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for
presenting
appeals from
orders.

152. Every appeal against the order of Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue¹ or the Commissioner may call for any case and pass such orders thereon as they may think proper.

When appeal
allowed from
judgment
of Collector
for money
below one
hundred
rupees.

153. In suits under clauses (2), (4) and (7) of section 23 and under section 24 of this Act, tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred rupees, the judgment of the Collector shall be final and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a *raiayat* or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in sections 160 and 161 of this Act.

Re-hearing in
suits not open
to appeal.

154. In suits in which the judgment of the Collector is final as provided in the last preceding section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of or could not produce, at the time of trial.

Appeal from
decision of
Deputy
Collector.

155. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of
appeal.

156. The petition of appeal shall be written * * *² and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in
appeal.

157. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons.

If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1), *ante*, p. 210.

² So much of s. 156 as relates to the stamp to be borne by a petition of appeal having been repealed by the Court-fees Act, 1870 (7 of 1870), the words "on stamp paper of eight annas value" have here been omitted.

of 1859.]

(Secs. 158-164.)

appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant shall appear and the respondent shall not appear in person or by an agent the appeal shall be heard *ex parte*.

158. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector for the re-admission of the appeal, and, if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Re-admission of appeal.

159. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

Judgment in appeal.

160. In all suits other than those, in which, when tried and decided by a Collector, the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the *Zila* Judge; unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the *Sadar* Court.

In what suit appeal to lie to *Zila* Judge;

to *Sadar* Court.

161. The petition of appeal shall be written * * *¹ and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the *Zila* Judge or *Sadar* Court under this Act.

Presentation and hearing of appeals.

162. (*Revenue-offices in which suits to be preferred.*) *Rep. by the Bengal Rent Act, 1862 (Ben. Act 6 of 1862).*

163. * * *² no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate, the revenue of which is paid into the treasury of the said district.

No jurisdiction in Collector as to lands beyond district.

164. No Deputy Collector appointed under Regulation 9, 1833⁴, of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any police-functions.

Deputy Collector when not to exercise judicial powers.

¹ As to the application of ss. 160 and 161 to other cases, see the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 10, in Vol. II of this Code.

² So much of s. 161 as relates to the stamp to be borne by a petition of appeal having been repealed by the Court-fees Act, 1870 (7 of 1870), the words "on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal" have here been omitted.

³ The words "Except as provided in the last preceding section," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁴ The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833. It is printed *ante*, p. 317.

(Secs. 165-168; Schedule—Form A.)

Powers to be
exercised by
Assistants to
Collectors.

165. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of
rights of
proprietors as
to tenures
under Reg. 8,
1819.

166. Nothing contained in this Act shall be held to affect the right, vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent *patni taluks* and other similar tenures under the provisions of Regulation 8, 1819.¹

167. (*Commencement of Act.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

"Civil jail."

168. The words "civil jail" as used in this Act shall include the civil jail of the *zila* and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act:

"Nazir."

The word "*Nazir*" shall include any officer of a Court authorized to serve or execute its process :

SCHEDULE.

FORM A.

(See section 11.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

(*Name, description and address of plaintiff.*)

C. D., defendant.

(*Name, description and address of defendant.*)

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*), you are hereby required to appear in person in this Court on the day of (*if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject or who shall be accompanied*

¹ The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 187.

² The clause in s. 168 as to number and gender, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 13, in General Acts, 1887-97, Ed. 1909, p. 580.

of 1859.]

(Schedule—Forms B and C.)

by a person who has such knowledge") to answer the above-named plaintiff, and you will bring with you (or send by your agent) (*here mention any document the production of which may be required by the plaintiff*) which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM B.

(See section 19.)

FORM OF WARRANT OF ARREST.

No. (of suit) dated
In the Court of
A. B., plaintiff.
C. D., defendant.

To the *Nazir* of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.
Dated this day of 18 .

FORM C.

(See section 19.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of
A. B., plaintiff.
(*Name, description and address of plaintiff.*)
C. D., defendant.
(*Name, description and address of defendant.*)

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

(Schedule—Forms D to F.)

FORM D.

(See section 51.)

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A. B.*, plaintiff, has instituted a suit in the Court of the Collector of _____ against *C. D.*, defendant, and the said *C. D.* has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, *I, E. F.*, hereby declare myself surety for the said *C. D.*'s appearance as aforesaid, and, in case of his making default in such appearance, I engage to pay any sum for the payment of which the said *C. D.* may be liable under the decree. (*If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.*)

FORM E.

(See section 86.)

WRIT OF EXECUTION AGAINST THE PERSON.

*Rep. by the Repealing and Amending Act, 1891 (12 of 1891).
Reprinted in foot-note to the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 17, in Vol. II of this Code.*

FORM F.

(See section 86.)

WRIT OF EXECUTION AGAINST THE EFFECTS.

*Rep. by the Repealing and Amending Act, 1891 (12 of 1891).
Reprinted in foot-note to the Bengal Rent Act, 1862 (Ben. Act 6 of 1862), s. 17, in Vol. II of this Code.*

of 1859.]

(Schedule—Form G.)

FORM G.

(See section 124.)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

(Name, description and address of the owner of the property.)

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this

day of

18 .

ACT 11 OF 1859

(THE BENGAL LAND-REVENUE SALES ACT, 1859)

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SCHEDULE B.—(*Repealed*.)

ACT 11 OF 1859

(THE BENGAL LAND-REVENUE SALES ACT, 1859)¹.

(4th May, 1859.)

An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.

[Whereas it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government, in the Province of Cuttack;]

Preamble.

and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured;

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see post*, p. 733.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see* the title and the concluding paragraph of s. 1, *post*, p. 182, but, was declared by s. 62 (*post*, p. 466) to extend only to such parts of that Province as are subject to the general Regulations.

It has been declared, by the Laws Local Extent Act, 1871 (15 of 1871), s. 6 (in General Acts, 1868-78, Ed. 1909, p. 438), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1871 (14 of 1871), s. 3, to be in force in West Jalpaiguri, in the Jalpaiguri District—*see* Vol. IV, Part IV.

It has been extended, by notification under the Scheduled Districts Act, 1871 (14 of 1871), s. 5, to the following Scheduled Districts, namely—

the Western Duars, in the Jalpaiguri District—*see* Vol. IV, Part IV, and the Darjeeling District—*see ib*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

ASSOCIATED REPRINT.—This Act is reprinted, with notes of cases decided by the High Court and of important rulings of the Bengal Board of Revenue, in the Bengal Sale Law Manual, 1902, pp. 11 to 57.

AMENDING ACTS.—The Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862), and the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), are to be read and taken as part of this Act—*see* s. 4 of the former Act and s. 30 of the latter Act, in Vol. II of this Code.

FURTHER ENACTMENTS.—Sales for arrears of revenue are not liable to annulment by the Civil Courts on the ground—

- (a) that one or more of the shareholders may not have obtained possession of his or their interests in the property, or
- (b) that the proceeds of the sales have materially exceeded the amount of the arrears.

The Board of Revenue has full discretion in ordering sales in such cases, subject to the control of the Government—*see* the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), ss. 24, 26, *ante*, p. 124.

As to the sale of *ghatwali* tenures, *see* the Bengal Ghatwali Lands Regulation, 1814 (29 of 1814), s. 5, *ante*, p. 134.

For saving of liability of tenures to cancellation on sale of estate for arrears of land-revenue, *see* the Bengal Patni Taluks Regulation, 1819 (8 of 1819), s. 2, proviso, *ante*, p. 190.

The Bengal Tenancy Act, 1885, does not affect any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue—*see* s. 195 (c) of that Act, *post*, p. 598.

As to the recovery, beyond the district in which they accrued, of arrears of land-revenue and of sums recoverable as arrears of land-revenue, *see* the Revenue Recovery Act, 1890 (1 of 1890), in General Acts, 1887-97, Ed. 1909, p. 177.

As to the protection from sale of estates and shares of estates which are under the charge of the Court of Wards, *see* the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Part II, in Vol. II of this Code.

For special procedure as to the sale or attachment of a settled estate for an arrear of land-revenue, or for any other arrear which is recoverable in the same manner as an arrear of land-revenue, *see* the Bengal Settled Estates Act, 1904 (Ben. Act 3 of 1904), ss. 33, 34, in Vol. III of this Code.

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales for arrears of land-revenue or other public demands—*see* s. 8 of that Act, in General Acts, 1904-09, Ed. 1909, p. 17.

THE CERTIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realized by sale under the present Act, and of arrears of revenue due from farmers, *see* the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), s. 5, in Vol. III of this Code.

² This includes the present Presidency of Port William in Bengal and other territory.

(Secs. 1-3.)

and whereas it is expedient to afford sharers in estates, who duly pay their shares of the *sadar jama* of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers;

and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents;

and whereas it is expedient to provide for the voluntary registration of dependent *taluks* existing at the time of settlement;

and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale, and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue;

and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the provinces of Bengal, [*Bihar and Orissa*];

It is enacted as follows:

1. (*Laws repealed.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

"Arrear of
revenue"
defined.

2. If the whole or a portion of a *kist* or instalment of any month of the era according to which the settlement and *kist-bandi* of any *mahal* have been regulated be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of
payment.

3. Upon the promulgation of this Act, the Board of Revenue¹ at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realised in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates² in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder.

And the said Board¹ shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector³ or other officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and *Munsifs*, and at every *thana*-station of that district;

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (*l. ante*, p. 210).

² As to the sale of tenures which are not estates, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), ss. 11 to 14, in Vol. II of this Code.

³ As to the Collectorate in which estates are, for the purposes of this Act, to be deemed to be included, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 10, in Vol. II of this Code.

of 1859.]

(Secs. 4-6.)

and the dates so fixed shall not be changed except by the said Board¹ by advertisement and notification² in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

4. (*In Sythet, personal property of defaulters may in the first instance be distrained and sold.*) Rep. by the Repealing and Amending Act, 1891 (12 of 1891).

5. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification, in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of this Act,

Proviso as to
certain
description
of arrears.

in the office of the Collector, or other officer duly authorized to hold sales under this Act.

in the Court of the Judge within whose jurisdiction the land advertised lies, and

in the *Munsif's* Court and police-*thana* of the division in which the estate or share of an estate to which the notification relates is situated, or, if the estate or share of an estate be situated within the jurisdiction of more than one *Munsif's* Court or police-*thana*, in some one or more of such Courts or *thanas*, and

also at the *cutcherry* of the *malguzar* or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First.—Arrears other than those of the current year, or of the year immediately preceding.

Secondly.—Arrears due on account of estates other than that to be sold.

Thirdly.—Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly.—Arrears due on account of *takari*, *pulbandi* or other demands not being land-revenue, but recoverable by the same process as arrears of land-revenue.

6. The Collector or other officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in section 3 of this Act, issue notifications,³ in the language of the district,

Issue of
notifications
of sale.

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1) *ante*, p. 210.

² For a notification issued under section 3, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ As to service of notices upon proprietors before proceeding under this Act to realize arrears, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 6, in Vol. II of this Code.

For mode of serving notices under the present Act, see *ibid.*, s. 5, in Vol. II of this Code.

(Secs. 7, 8.)

to be affixed in his own office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence which they shall not be less than ¹[thirty] * * * clear days from the date of affixing the notification in the office of the Collector or other officer as aforesaid.

And, if the Government revenue of any estate or share of an estate to be sold exceed the sum of five hundred rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette.

Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder.

And no payment or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

7. Whenever an estate or share of an estate is notified for sale as provided by section 6 of this Act, the Collector or other officer as aforesaid shall affix a proclamation, in the language of the district,

in his own office, and as soon thereafter as may be in the *Munsif's* Courts and police-*thanas* within which the estate or share of an estate, or any part of it, is situated, and also at the *cutcherry* of the *malguzar* or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate,³

forbidding the *rai-yats* and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

8. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hand bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in section

Tender after latest day of payment not to stop sale.
Notice to *rai-yats*, etc.

Claims of defaulter against Government not to invalidate sale.

¹ The word "thirty," in s. 6, was substituted for the word "fifteen" by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 3, in Vol. II of this Code.

² The words "or more than thirty," which were repealed by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 3, are omitted.

³ Also at the sub-divisional *cutcherry* within the jurisdiction of which the estate is situated—see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 7, in Vol. II of this Code.

of 1859.]

(Secs. 9, 10.)

15 of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

9. The Collector or other officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to section 3 of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate.

Deposits
receivable
from persons
not proprie-
tors.

And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in civil suits.

And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor.

And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

10. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government,

Separation of
shares held
in common,
by opening
separate
account.

¹ For fees payable on applications made under s. 10 or s. 11, see the Bengal Land Registration Act 1876 (Ben. Act 7 of 1876), s. 70, in Vol. II of this Code.

A separate account may be opened under s. 10 or s. 11 in respect of such a share only as corresponds with the character and extent of interest in respect of which the applicant is recorded as proprietor or manager under the Land Registration Act, 1876 (Ben. Act 7 of 1876)—see s. 69 of that Act, in Vol. II of this Code.

As to the opening of a separate account, and the application of ss. 10, 12, 13 and 14 of the present Act, see also ss. 70 and 71 of the Act of 1876, in Vol. II of this Code.

As to the closing of separate accounts opened under s. 10 or s. 11 of the present Act, and the opening of fresh accounts thereunder, see ss. 72 to 74A of the Act of 1876, in Vol. II of this Code.

As to the protection from sale of shares of estates for which a separate account has been opened under s. 10 or s. 11, and which are under the charge of the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Pt. III, in Vol. II of this Code.

As to the sale for arrears of land-revenue of a share of an estate which is under partition, see the Estates Partition Act, 1897 (Ben. Act 5 of 1897), s. 16, in Vol. III of this Code.

As to separate liability for payment of road-cess and public works-cess, when a separate account has been opened under the present Act, see the Cess Act, 1880 (Ben. Act 9 of 1880), s. 44, in Vol. II of this Code.

As to separate liability for payment of sums due under the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), when a separate account has been opened under the present Act, see ss. 71 and 72 of the Act of 1882, in Vol. II of this Code.

(Secs. 11, 12.)

revenue separately, he may submit to the Collector a written application to that effect.

The application must contain a specification of the share held in the estate by the applicant.

The Collector shall then cause to be published in his own office, in the Court of the Judge, Magistrate (or Joint-Magistrate as the case may be), and *Munsifs*, and in the police-*thanas* in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him.

If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land, by opening separate accounts.

¹11. When a recorded sharer of a joint-estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of *sadar jama* heretofore paid on account of it.

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding section.

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

If objection be made, parties to be referred to Civil Court.

²12. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of a specific portion of the land of an estate, that the amount of *sadar jama* stated by the applicant to have been heretofore paid on account of such portion of land is not the amount which has been recognized by the other sharers as the *jama* thereof, the Collector shall refer the parties to the Civil Court and

¹ See footnotes to section 10, *ante*, p. 431.

² As to the extended application of section 12, see the third footnote to s. 10, *ante*, p. 431.

of 1859.]

(Secs. 13-15.)

shall suspend proceedings until the question at issue is judicially determined.

¹13. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due.

Sale of
separate
shares.

In all such cases notice of the intention of excluding the share or shares from which no arrear is due shall be given in the advertisement of sale prescribed in section 6 of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, of *jama* assigned thereto.

¹14. If in any case of a sale held according to the provisions of the last preceding section the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share.

Entire
estate
may be
sold under
certain
conditions.

If such purchase be completed, the Collector or other officer as aforesaid shall give such certificate and delivery of possession as are provided for in sections 28 and 29 of this Act to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale.

If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in section 6 of this Act.

²15. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector and shall sign an agreement pledging the same to Government by way of security for the *jama* of the entire estate, and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under section 3 of this Act the Collector shall apply to the payment of such arrear the

Deposit for
protection
of estate
from sale.

¹ As to the extended application of sections 13 and 14, see the third footnote to s. 10, ante, p. 431.

² For fees payable on applications under section 15, see the Berhal Land-Revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862), s. 3, in Vol. II of this Code.

(Secs. 16-18.)

said money or securities, or such part thereof or of any interest due on the said securities, as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain.

And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue.

All moneys and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

Withdrawal
of deposit.

¹16. It shall be competent to the person making a deposit under the provision of the last preceding section, or his representative or assignee, at any time, to withdraw the deposit and to revoke the pledge of the same.

Estate under
attachment.

17. * * * * * no estate held under attachment by the Revenue-authorities otherwise than by order of a judicial authority shall be liable to sale for arrears accruing whilst it was so held under attachment.

And no estate held under attachment or managed by a Revenue officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

Power to
exempt from
sale.

18. It shall be competent to the Collector or other officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other officer as aforesaid to that effect in each case; and no such sale shall be legal if held after the receipt of such order of exemption:

Proviso.

Provided, however, ²that the Collector or other officer as aforesaid, or the Commissioner, shall duly record in a proceeding the reason for granting such exemption; and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken

¹ For fees payable on applications under section 16, see the Bengal Land-Revenue Sales (Amendment) Act, 1862 (Ben. Act 8 of 1862), s. 3, in Vol. II of this Code

² The words and figures "No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate, the sole property of a minor or minors and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation 6, 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same until the minor or minors, or one of them, shall have attained the full age of eighteen years, and," which were repealed by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3rd of 1881), are omitted.

* Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1859.]

(Secs. 19-23.)

place before the receipt by the Collector or other officer as aforesaid of the order of exemption.

19. Sales shall ordinarily be made by the Collector or other officer as aforesaid in the Land-revenue office at the *sadar* station of the district :

Sales where to be made.

Provided, however, that it shall be competent to the Board of Revenue¹ to prescribe a place for holding sales other than such office whenever they shall consider it beneficial to the parties concerned.

20. In case the Collector or other officer as aforesaid shall be unable, from sickness, from the occurrence of a holiday or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue and announcing the adjournment by written proclamation stuck up in his *cutcherry*; and so on, from day to day, until he shall be able to commence upon or to complete the sale; but with the exception of adjournments so made, recorded and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Adjournment of sales.

21. On the day of sale fixed according to section 6 of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the *tauji* or register in use in the Collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so in default of deposit, as provided in section 22 of this Act.

Order of selling.

22. The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid shall be required to deposit immediately, or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think necessary, either in cash, Bank of Bengal * * *² post-bills, ³ [currency notes], or Government securities, to be valued at the market-rate of the day, duly endorsed, twenty-five *per cent.* on the amount of his bid; and in default of such deposit the estate or share shall forthwith be put up again and sold.

Deposit on account of purchase-money

23. The full amount of purchase-money shall be made good by the purchaser before sunset of the thirtieth day from that

Full payment of purchase-money.

¹ As to the exercise of the functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4(1), *ante*, p. 210.

² The words "notes or," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ The words "currency notes," in s. 22, were inserted by the Repealing and Amending Act, 1903 (1 of 1903). Sch. II—see *post*, p. 749.

(Secs. 24-26.)

on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth; and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold.

And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase-money, and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

24. When default is made in the payment of purchase-money, a notification of the intended re-sale shall be published for the period and in the manner prescribed in section 6 of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding section shall be applicable to every such re-sale:

Provided that, if default of payment of purchase-money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized,

25. (*Appeals.*) *Rep. by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 29.*

Annulment
of sale in
special cases.

26. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue¹, who, if they see cause, may recommend to the Local Government to annul the sale; and the Local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

¹ As to the exercise of functions of the Board of Revenue by other authorities, see references cited in footnote to the Bengal Board of Revenue Regulation, 1822 (3 of 1822), s. 4 (1) *ante*, p. 210.

of 1859.]

(Secs. 27-31.)

27. All sales of which the purchase-money has been paid up as prescribed in section 23 of this Act, and against which no appeal¹ shall have been preferred, shall be final and conclusive at noon of the ²[sixtieth] day from the day of sale, reckoning the said day of sale as the first of the said ²[sixty] days.

Sales when final.

And sales against which an appeal may have been preferred and dismissed by the Commissioner shall be final and conclusive from the date of such dismissal, if more than ²[sixty] days from the day of sale, or if less, then at noon of the ²[sixtieth] day as above provided.

28. Immediately upon a sale becoming final and conclusive, the Collector or other officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act.

Certificate of sales.

And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified³.

And the Collector shall also notify such transfer by written proclamation in his own office, and in the Courts of the *Munsifs* and police-*thanas* within whose jurisdictions any part of the estate or share sold shall be situated.

29. The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate at the *mal cutcherry* or in some conspicuous place of the estate or share of an estate purchased.

Delivery of possession.

30. The party certified as the proprietor of an estate or share of an estate by purchase under this Act shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Liability of purchaser.

31. The Collector shall apply the purchase-money, first, to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and, secondly, to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the district: holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in manner following: to wit, in shares proportion to their recorded interest in the

Application of purchase-money.

¹ For power of the Commissioner to receive appeals against sales made under this Act, and to annul such sales, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 2, in Vol. II of this Code.

² The words "sixtieth" and "sixty" were substituted for the words "thirtieth" and "thirty," respectively, by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 4, in Vol. II of this Code.

³ As to the effect of this certificate, see also the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 8, in Vol. II of this Code.

(Secs. 32-34.)

estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt.

And, if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase-money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Notification
of annulment
of sale.

32. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by section 28 of this Act; and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current public securities: which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of [section 2 of the Bengal Land-revenue Sales Act, 1868.] or section 26 of this Act.

Jurisdiction
of Civil
Courts in
suits to annul
sales.

33. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act, and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under [section 2 of the Bengal Land-revenue Sales Act, 1868]; and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in section 27 of this Act: and no person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money:

Ben. Act 7 of
1868.

Ben. Act 7 of
1868.

Proviso.

Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Effects of
annulment
of sales by
decree of
Court.

34. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favour such decree was passed shall lose all benefit therefrom.

¹ These words and figures, in sections 32 and 33 were substituted for the word and figures "section 26" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 749. Bengal Act 7 of 1868 is printed in Vol. II of this Code.

of 1859.]

(Secs. 35-37.)

And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase-money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government securities.

And, if such party shall neglect to pay any amount so recoverable within six months from the date of such final decree, he shall lose all benefit therefrom.

35. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

If sale annulled, purchase-money to be refunded.

36. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Dismissal of suit brought to oust purchaser on ground that purchase was made for another.

37. The purchaser of an entire estate in the permanently-settled districts of Bengal, [*Bihâr and Orissa*], sold under this Act for the recovery of arrears due on account of the same shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:—

Rights of purchaser of permanently settled estate sold for its own arrears.

First.—*Istimrâri* or *mukarrari* tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly.—Tenures existing at the time of settlement which have not been held at a fixed rent:

Provided always that the rents of such tenure shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly.—*Talukdari* and other similar tenures created since the time of settlement and held immediately of the proprietors of estates and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly.—Leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk.

(Secs. 38-40.)

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise:

Proviso.

Provided always that nothing in this section contained shall be construed to entitle any such purchaser as aforesaid to eject any *raiyat* having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such *raiyat* otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Registration of certain tenures and farms.

38. The following rules for the registration of *talukdari* and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed.

Common and special registry.

39. There shall be two sets of registers—one for common registry and one for special registry.

Common registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue except the Government.

Special registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue including the Government.

Application for registry.

40. The holder of any *talukdari* or other similar tenure, such as is described in section 38 of this Act, desirous of registering it, shall apply by petition to the Collector of the district to which the estate belongs.

The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable:—

- (1) the *pargana* or *parganas* in which the tenure is situated;
- (2) the nature of the tenure;
- (3) the name or names of the village or villages whereof the land is composed, or wherein it is situated;
- (4) the area of the land comprised in the tenure, with its boundaries in complete detail;

¹ For limitation of time for making applications for registry of tenures under section 40, 43 or 44, see the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862), s. 2, in Vol. II of this Code.

² For fees payable on applications made under sections 40, 43 or 44, see *ibid.*, s. 3, in Vol. II of this Code.

of 1859.]

(Secs. 41, 42.)

- (5) the amount of rent payable annually for the tenure and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it;
- (6) the date of the deed constituting the tenure, or the date when the tenure was created;
- (7) the name of the proprietor who created the tenure;
- (8) the name of the original holder of the tenure;
- (9) the name of the present possessor, and, if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said section may apply in like manner for registry of the same.

The application shall contain such of the foregoing particulars as are applicable to farms.

41. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his office, and at the *mâl-cutcherry* of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any statement contained in the application.

Procedure on application for common registry.

If within the limited time no objection is made the Collector shall register the tenure or farm.

If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall grant the application.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

42. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding section.

Procedure application for special registry.

If within the limited time no objection is made, the Collector shall cause any inquiry that he may deem necessary for the security of the Government revenue to be made; and, if he is satisfied that the Government revenue of the parent estate is

(Secs. 43, 44.)

sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected.

If within the limited time any recorded proprietor or any party interested not being a proprietor object to the registry, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Registration
of leases of
certain lands.

¹43. Leases of lands of the description specified in the fourth exceptional class in section 37 may be registered, at the option of the holders in the manner and under the rules hereinbefore provided for the registry of *talukdari* and other similar tenures.

Registration
of old
tenures.

¹44. Tenures of the first and second exceptional classes in section 37 may be registered at the option of the holders; and when so registered shall be entered only in the special register.

Application for such registry shall contain the particulars specified in section 40 so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in section 41.

If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such inquiries as may be necessary to satisfy him as to the validity of the tenure; and, if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected.

If within the limited time, any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time:

¹ See footnotes to s. 40, *ibid.*, p. 440.

of 1859.]

(Secs. 45-50.)

Provided always that nothing contained in this section shall be understood as rendering registration necessary for the protection of *bond fide* tenures of the description herein referred to. Proviso.

45. (*Time for application for registry of tenures and farms.*) Rep. by the Bengal Land-revenue Sales (Amendment) Act, 1862 (*Ben. Act 3 of 1862*).

46. The actual expenses of any measurement, survey or local inquiry made under sections 42 and 44 of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary. Expenses of measurement, survey or local inquiry.

47. No Civil Court shall be competent to order the Revenue-authorities to enter any tenure or farm in the special register: Civil Court not competent to order entry in special register.

Provided always that the refusal of the Revenue-authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

48. Subject to the general law of limitation,¹ any person thinking himself wronged by the registry of a tenure or farm may file a suit for the cancellation of the same. Suit for cancellation of registry of tenure or farm.

49. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue-authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue-authorities to whom they are subordinate, and from the Local Government; and all orders passed under the sections aforesaid shall be open to appeal in usual course. Proceedings of Revenue-authorities in registration of tenures, etc.

The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open at any time within one year from the date of registry to revision by the Board of Revenue² or the Local Government, on the ground of the Government revenue not having been sufficiently secured, or of the invalidity of the tenure, as the case may be.

50. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue: Effect of entry in special register.

Provided that a tenure or farm in the hands of a *bond fide* purchaser for value shall not be avoided by reason of such fraud.

But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof—such amount to be fixed by the Collector:

¹ See now the Indian Limitation Act, 1908 (9 of 1908), in General Acts, 1904-05 P.B.A. 1908, p. 478.

² As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bengal Board of Revenue Regulation, 1822 (8 of 1822) s. 4 (1), ante, p. 210.

Protection of
saludari
tenures
pending
inquiry, in
case of sale
of parent
estate for
arrears of
revenue.

Rights of
purchaser of
estate not
permanently
settled, sold
for its own
arrears.

51. Tenures and farms of the third exceptional class described in section 37 of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the inquiry prescribed in section 42, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such inquiry, and shall be protected eventually by registration, if the final award of the Revenue-authorities upon such application be in favour of the claimant.

52. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with *raiyats* or the like, settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter or renew, saving always and except leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect:

Provided that nothing contained in this section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the *pargana*, *mauza* or other local division, such persons are liable to be called upon for any new assessment or other demand not interdicted by the Regulations of Government.

Rights of
purchaser
being sharer
in estate;

53. Excepting * * * ¹ sharers with whom the Collector, under sections 10 and 11 of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner, or who by re-purchase or otherwise may recover

¹ The words and figures "shares in estates under *bataedra* who may have saved their sharers from sale under sections 33 and 34, Regulation 19, 1814, and," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

of 1859.]

(Secs. 54-59.)

possession of the said estate, after it has been sold for arrears under this Act, and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or *raiya*ts which were not possessed by the previous proprietor at the time of the sale of the said estate.

and of
purchaser of
estate not sold
for its own
arrears.

54. When a share or shares of an estate may be sold under the provisions of section 13 or section 14, the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Rights of
purchasers of
shares of
estate.

55. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or *raiya*ts shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day.

Recovery of
arrears due to
defaulters.

56. Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open *cutcherry* or office for the time being, by fine to an extent not exceeding two hundred rupees, commutable if not paid to imprisonment in the civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid shall carry his sentence into effect:

Punishment
for contempt.

Provided that an appeal from any order passed under this section shall lie to the Revenue Commissioner, whose decision shall be final.

57. A default to make good a bid by making the deposit required by section 22 of this Act shall be held to be a contempt.

Default as to
deposit a con-
tempt.

58. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other officer as aforesaid may purchase the estate on account of the Government for one rupee, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.¹

Government
may purchase
at sale.

59. (*Fees and charges demandable by Collector.*) *Rep. by the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862).*

¹ As to the management of estates purchased by the Collector, see the Bengal Government Indemnity Regulation, 1822 (11 of 1822), s. 36, ante, p. 249.

(Secs. 60-62.)

Regulations
7, 1822, and
9, 1825, in
force in
certain
estates.

Interpreta-
tion.

Application
of Act.

60. The provisions of Regulation 7, 1822,¹ and Regulation 9, 1825,² shall be in force in every estate in any part of which a measurement, survey, or local inquiry may be made under this Act, and in every estate purchased or taken on account of Government under this Act.

61. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising, by the authority of Government, the powers of a Collector or Deputy Collector.³

62. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal⁴ as are or shall be subject to the general Regulations of that Presidency.⁵

¹ The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 217.

² The Bengal Land-revenue Settlement Regulation, 1825. It is printed *ante*, p. 269.

³ Cf. the definition of "Collector" in the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 1, in Vol. II of this Code. That definition, and the definitions of "proprietor," "revenue," "estate," "tenure," and "jurisdiction" (of a Collector) contained in that section, apply to the present Act.

⁴ This includes the present Presidency of Fort William in Bengal and other territory

⁵ But see foot-notes under the heading "Local Extent," *ante*, p. 427.

of 1859.]

*(Schedules.)*¹ SCHEDULE A.

I certify that A. B. has purchased, under Act No. 11 of 1859, the *mahál* (or share of a *mahál*) specified below, standing in the *tauzi* of the district of _____ and that his purchase took effect on the _____ day of _____ (*being the day after that fixed for last day of payment.*)

(Signed.)

D. E.,

Collector.

SPECIFICATION.

*(If of an entire mahál.)**Tauzi* numberName of *mahál*

Name of the former proprietor

*Sadar jama**(If of a share of a mahál.)**Tauzi* number of the entire *mahál*Name of the entire *mahál**Sadar jama* of the entire *mahál*

Description of the share sold

Subordinate *tauzi* number of the share sold

Name of the former proprietor of the share sold

Sadar jama for which the share sold is separately liable.

SCHEDULE B.

FEES.

*Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*¹ This Schedule is referred to in section 28, *ante*, p. 437.

ACT 12 OF 1859

(THE CALCUTTA PILOTS ACT, 1859)

CONTENTS.

PREAMBLE.

SECTION.

1. (*Repealed*.)
2. Trial of pilots accused of breach of duty.
3. Appointment of Judge.
4. Appointment of prosecutor.
5. Trial to be held before Judge and jury.
6. Lists of merchants and pilots liable to serve on jury.
7. Notice to prosecutor and accused of time and place for appointing jury.
8. Appointment of jury.
9. Day of trial to be fixed and summons to issue to jurors.
Penalty for non-attendance.
10. Trial how to proceed if any juror does not attend.
11. Register of jurors who have served.
12. (*Repealed*.)
13. Judge may summon witnesses to attend at certain time and place.
Examination of witnesses about to leave Calcutta.
14. Penalty for witnesses not attending or refusing to give evidence.
15. (*Repealed*.)
15. Arrest.
16. Verdict of jurors.
17. Sentence if accused found guilty.
Preparation of schedule of offences and punishments.
Acquittal.
18. No sentence final till approved by Government.
Government may remit sentence or mitigate punishment.
19. If verdict of jurors be manifestly contrary to evidence or trial otherwise insufficient.
20. Power to make rules.
21. Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.
22. Withdrawal of license from licensed pilot.
23. Act applicable to persons in Pilot-service and to licensed pilots.

ACT 12 OF 1859

(THE CALCUTTA PILOTS ACT, 1859)¹.

(4th May, 1859.)

An Act to make better provision for the trial of pilots at the Presidency of Fort William in Bengal² for breach of duty.

Whereas it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal², when accused of breach of duty, and to extend the same to persons licensed to act as pilots at the said Presidency³. It is enacted as follows:

Preamble.

1. (*Repeal of Acts 24 of 1845 and 1 of 1851.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal², or licensed to act as a pilot at the said Presidency², shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the³[Port Officer] or to the Lieutenant-Governor of Bengal⁴ that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said³ [Port Officer], or such other person as the said Lieutenant-Governor⁴ shall direct, before a Court constituted under the provisions of this Act.

Trial of pilots accused of breach of duty.

3. The Lieutenant-Governor of Bengal⁴ shall appoint a fit person to be Judge of the said Court.

Appointment of Judge.

4. The Lieutenant-Governor⁴ shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Appointment of prosecutor.

5. Every trial under this Act shall be held before the said Judge and a jury composed of two merchants of Calcutta, a master of a merchant-ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.

Trial to be held before Judge and jury.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see post, p. 733.

LOCAL EXTENT.—This Act applies to all persons employed in the Pilot Service at the Presidency (i.e., at Calcutta) and borne on the rolls of the Government establishment, and to all persons licensed to act as pilots at the Presidency (i.e. at Calcutta)—see s. 23, post, p. 456.

OTHER ENACTMENTS.—For further provisions as to pilots and pilotage fees, see—

the Indian Ports Act, 1908 (16 of 1908), ss. 81, 85, in General Acts, 1904-09, Ed. 1909, pp. 680, 482 and

the Chittagong Port Commissioners Act, 1887 (Ben. Act 4 of 1887), s. 12, in Vol. 41 of this Code.

² i.e., at Calcutta.

³ The words "Port Officer" in section 2 were substituted for the words "Superintendent of Marine" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see post, p. 749.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, post, pp. 774 and 776.

(Secs. 6-9.)

**Lists of
merchants and
pilots liable to
serve on jury.**

6. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated.

**Notice to
prosecutor
and accused of
time and place
for appointing
jury.
Appointment
of jury.**

7. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a jury to serve at such trial.

8. At the time and place mentioned in the notice the Judge in the presence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial; and shall also propose the name of a master of a merchant-ship lying in the Port of Calcutta whom he deems qualified to serve on such jury.

If no objection be made and allowed, the persons so nominated shall be the jury to serve at the trial.

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge.

If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid.

**Day of trial
to be fixed
and summons
to issue to
jurors.**

9. When a jury has been appointed under the last preceding section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a jury.

**Penalty for
non-attend-
ance.**

If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge.

Such warrant may be transmitted by the Judge to any Magistrate of Police¹ for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate.

¹ No. 1. Presidency Magistrate—see the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 3 (2) in General Acts, 1898-03, Ed. 1909, p. 40.

of 1859.]

(Secs. 10-14.)

10. If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may with the consent of the prosecutor and the party accused be held before the Judge and such jurors as shall be in attendance.

Trial
how to
proceed
if any
juror does
not attend

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid.

If the parties or either of them do not consent that the trial shall be held before the Judge and such jurors as may be in attendance and the place of the absent juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

11. The Judge shall register in a book the names of all jurors mentioned in either of the said two lists who have attended and serve on a trial held under this Act.

Register of
jurors who
have served.

A juror who has served shall not be required again to serve and his name shall be excluded in reading over the jury-lists until all the persons named in the said lists who are present in Calcutta and capable of attending as jurors shall have served.

12. (*Jurors to be sworn.*) *Rep. by the Indian Oaths Act, 1873 (10 of 1873).*

13. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court; or if such person shall be about to depart from Calcutta so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial:

Judge may
summon
witnesses
to attend
at certain
time and
place.

Examination
of witnesses
about to
leave
Calcutta.

Provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

14. If any person who shall have been duly summoned, to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in section 9 of this Act.

Penalty for
witnesses not
attending or
refusing to
give evidence

(Secs. 15-17.)

15. (*Examination of witnesses on oath, affirmation or otherwise.*) *Rep. by the Indian Oaths Act, 1873 (10 of 1873).*

Arrest.

15. (1) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officer of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to affect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186².

15 c

(3) No person shall be detained under this section for more than forty-eight hours.

Verdict of jurors.

16. Upon the completion of the trial, the jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge.

The verdict shall be according to the opinion of the majority of jurors. If the jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the jurors with whom he concurs.

Sentence if accused found guilty.

17. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot-service, or to have his license withdrawn, or shall award such other punishment, by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit.

Preparation of schedule of offences and punishments.

The Lieutenant-Governor of Bengal³, with the sanction of the Governor General in Council, may prepare a schedule⁴ of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and, if such schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said schedule, and no other.

Acquittal.

If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

¹ This section 15 was inserted by the Calcutta Pilots (Amendment) Act, 1888 (6 of 1888), printed in Vol. II of this Code.

² Printed in General Acts, 1884-87, Ed. 1903, p. 294.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

⁴ As to the Schedule prepared under s. 17, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1859.]

(Secs. 18-23.)

18. The proceedings of the Court shall be sent by the Judge to the ¹[Port Officer] for submission to the Lieutenant-Governor of Bengal²; and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the said Lieutenant-Governor.³

No sentence final till approved by Government.

The said Lieutenant-Governor² may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court as he shall think fit.

Government may remit sentence or mitigate punishment.

19. If it shall appear to the Judge of the said Court that the verdict of the jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal² and the said Lieutenant-Governor² may either order a new trial before another jury or acquit the accused person, as he shall think fit.

If verdict of jurors be manifestly contrary to evidence or trial otherwise insufficient.

20. It shall be lawful for the Lieutenant-Governor of Bengal² to make such rules³ as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Power to make rules.

21. Nothing contained in this Act shall be held to restrict the marine authorities of the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot-service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.

22. If any person licensed to act as a pilot when duly charged with breach of duty as aforesaid shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a pilot at the said Presidency⁴.

Withdrawal of license from licensed pilot.

23. The provisions of this Act shall extend to all persons employed in the Pilot-service at the said Presidency⁴ and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as pilots at the said Presidency⁴.

Act applicable to persons in Pilot-service and to licensed pilots.

¹ The words "Port Officer", in s. 18, were substituted for the words "Superintendent of Marine" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 749.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sec. D, item 1, *post*, pp. 774 and 776.

³ As to rules made under s. 20, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

⁴ i.e., at Calcutta

ACT 19 OF 1867

[THE DARJEELING (HIGH COURT'S JURISDICTION) ACT, 1867]¹.

(8th March, 1867).

An Act to make further provision for the Administration of Justice in the District of Darjeeling.

Whereas it is expedient to make further provision for the administration of justice in the District of Darjeeling; It is hereby enacted as follows:—

Preamble.

1. (*Repeal of Act 10 of 1863.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

2. The High Court of Judicature for the Bengal Division of the Presidency of Fort William² shall have and exercise, with regard to the District of Darjeeling, all such jurisdiction and powers as it has and exercises with regard to any other territory³.

High Court,
Fort William,
to exercise
jurisdiction
over
Darjeeling.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sec. 1—*see post*, p. 733.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1867, p. 33, and for Proceedings in Council, *see ibid.*, 1867, Supplement, pp. 1, 41, 162 and 219.

LOCAL EXTENT.—This Act extends only to the District of Darjeeling.

CONSTITUTION OF HIGH COURT.—As to the constitution, jurisdiction and powers of the Calcutta High Court, *see* the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104) [printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 357], and the Indian High Courts Act, 1865 (28 & 29 Vict., c. 15) [printed in *ibid.*, p. 396].

² This includes the present Presidency of Fort William in Bengal and other territory.

³ *ie.*, apparently, outside the local limits of its ordinary original civil jurisdiction.

ACT 4 OF 1871

(THE CORONERS ACT, 1871).

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ACT 4 OF 1871

(THE CORONERS ACT, 1871)¹.

(27th January, 1871.)

An Act to consolidate and amend the laws relating to Coroners.

Whereas it is expedient to consolidate and amend the ^{Preamble.} laws relating to Coroners in the Presidency-towns; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Coroners Act, 1871. Short title.
(*Local Extent.*) Rep. by the Coroners Act, 1881 (10 of 1881).
(*Commencement.*) Rep. by the Repealing Act, 1874 (16 of 1874).
2. (*Repeal of enactments.*) Rep. by the Repealing Act, 1873 (12 of 1873).

CHAPTER II.

APPOINTMENT OF CORONERS.

²3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William [*and Bombay*] there shall be a Coroner. Coroners of Calcutta [*and Bombay*].

Such Coroners shall be called [*respectively*] the Coroner of Calcutta [*and the Coroner of Bombay*].

4. Every such officer shall be appointed and may be suspended or removed by the Local Government. Their appointment, suspension and removal.

45 of 1860. 5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code⁴. Coroners to be public servants.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p. 296; for preliminary Report of Select Committee, see *ibid.* p. 351; and for proceedings in Council see *ibid.* 1870, Supplement, pp. 1077, 1196, 1298; *ibid.* 1871, Supplement, pp. 198, 207.

LOCAL EXTENT.—This Act extends to Calcutta—see s. 3.

² This section was substituted for the original s. 3 by the Coroners (Madras) Act, 1889 (5 of 1889), s. 2, *post*, p. 623.

³ The words "Every person now holding such office shall be deemed to have been appointed under this Act," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

⁴ Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

(Chapter II.—Appointment of Coroners. Chapter III.—Duties and Powers of Coroners.—Secs. 6-12.)

Power to hold
other offices.

6. Any Coroner may hold simultaneously any other office under Government.

7. (*Oath to be taken by Coroner.*) *Rep. by the Indian Oaths Act, 1873 (10 of 1873).*

CHAPTER III.

DUTIES AND POWERS OF CORONERS.

Jurisdiction
to inquire
into deaths.

8. When a Coroner ¹[has reason to believe] that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison, and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section 193² of the Indian Penal Code. 15 of 1860.

Coroner to be
sent for when
prisoner dies.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is ³[disposed of].

Any Superintendent failing herein shall, on conviction before a Magistrate, be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

Power to hold
inquests on
bodies within
local limits
wherever
cause of death
occurred.
Power to
order body
to be
disinterred.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition ⁴[where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition].

Summoning
jury.

12. On receiving notice of any death mentioned in section 8, the Coroner shall summon five, seven, nine, eleven

¹ These words in square brackets were substituted for the words "is informed" by the Coroners Act, 1881 (10 of 1881), s. 5, *post*, p. 478.

² Printed in the General Acts, 1884-67, Ed. 1909, p. 297.

³ These words in square brackets were substituted for the word "buried" by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 2, *post*, p. 757.

⁴ These words in square brackets were substituted for the words "where the first was insufficient" by the Coroners (Amendment) Act 1908 (4 of 1908), s. 8, *post*, p. 757.

of 1871.]

(Chapter III.—Duties and Powers of Coroners.—
Secs. 13-17.)

thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of inquiring when, how and by what means the deceased came by his death.

Any inquest under this Act may be held on a Sunday.

Inquest may
be on Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

Opening
Court.

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

Jurors to be
sworn.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires:

View of
body.

¹[Provided that the Coroner may, with the concurrence of a majority of the jury, dispense with a view of the body, if he is satisfied, from medical evidence or medical certificates, that no advantage would result from such viewing.]

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

Proclamation
for witnesses.

17. ²[It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall inquire of such circumstances and the cause of death, and, if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest.

Summoning
witnesses.

Any person disobeying such summons shall be deemed to have committed an offence under section 174, section 175 or section 176, of the Indian Penal Code,³ as the case may be.]

¹ This proviso was added to section 15 by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 4, *post*, p. 757.

² These clauses in s. 17 were substituted for the original clauses by the Coroners Act, 1881 (10 of 1881), s. 6, *post*, p. 478. The original clauses ran as follows:—

"It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall inquire of such circumstances and the cause of the death; and if, before or during the inquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

Any person failing so to attend or give evidence shall be deemed to have committed an offence under section 174 or 176 of the Indian Penal Code, as the case may be."

³ Printed in the General Acts, 1884-67, Ed 1909, pp. 391, 392.

(Chapter III.—Duties and Powers of Coroners.—
Secs. 18-21.)

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of ¹ [Part IX ² of the Prisoners Act, 1900.] 3 of 1900

*Post-mortem
examinations.*

18. The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest; and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

*Fees to
medical
witnesses.*

*Report of
Chemical
Examiner.*

³**18A.** Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1898.⁴

5 of 1898

*Evidence to be
on oath.
Evidence on
behalf of
accused.*

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Interpreter.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

*Questions
suggested by
jury.*

After each witness has been examined, the Coroner shall inquire whether the jury wish any further questions to be put to the witness, and, if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

*Coroner to
take down
evidence in
writing.*

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

*Witnesses to
sign depositions.*

Any witness refusing so to sign shall be deemed to have committed an offence under section 180.⁵ of the Indian Penal Code 45 of 186

*Coroner to
subscribe depositions.
Coroner a
Magistrate.*

Every such deposition shall be subscribed by the Coroner.

*Adjournment
of inquest.*

⁶[For the purposes of section 26,⁷ of the Indian Evidence Act, 1872: a Coroner shall be deemed to be a Magistrate.] 1 of 1872

21. The Coroner may adjourn the inquest from time to time, and from place to place.

¹ These words and figures in square brackets were substituted for the words and figures "Act No. XV of 1869 (to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them)" by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 5, post, p. 757.

² Printed in the General Acts, 1898-1908, Ed. 1909, p. 497.

³ Section 18A was inserted by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 6, post, p. 757.

⁴ Printed in the General Acts, 1898-1908, Ed. 1909, p. 38.

⁵ Printed in the General Acts, 1884-87, 1909, p. 298.

⁶ This clause was added to s. 20 by the Coroners Act, 1881 (10 of 1881), s. 7, post, p. 473.

⁷ Printed in the General Acts, 1868-78, Ed. 1909, p. 212.

of 1871.]

*(Chapter III.—Duties and Powers of Coroners.—
Secs. 22-26.)*

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

Jurors' recognizances.

The amount of such recognizances shall in each case be fixed by the Coroner, ¹[and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under section 31.]

22. When all the witnesses have been examined the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

Coroner to sum up to jury.

23. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

Coroner to draw up inquisition.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

Contents of inquisition.

- (1) where, when and before whom the inquisition is holden,
- (2) who the deceased is,
- (3) where his body lies,
- (4) the names of the jurors, and that they present the inquisition upon oath,
- (5) where, when and by what means the deceased came by his death, and
- (6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the Second Schedule hereto annexed, with such variation as the circumstances of each case require.

25. When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in British India, the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the Commissioner of Police.

Procedure where death is found due to an act amounting to an offence.

26. The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased

Power to arrest and commit for trial.

¹ These words and figures in square brackets were added to section 31 by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 7, *post*, p. 757.

² This section was substituted for the original section 25 by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 8, *post*, p. 757.

³ This section was substituted for the original section 26 by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 9, *post*, p. 757.

(Chapter III.—Duties and Powers of Coroners. Chapter IV.—
Coroners' Juries.—Secs. 27-32.)

person, and send him forthwith to a Magistrate empowered to commit him for trial.

27. (*Power to accept bail.*) *Rep. by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 10.*

Warrant for
burial.

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the ¹[disposal] of the body on which the inquest has been taken.

Inquisitions
not to be
quashed for
want of form.

29. No inquisition found upon or by any inquest shall be quashed for any technical defect.

Amendment
of inquisition.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Cessation of
jurisdiction
as to
treasure-trove,
wrecks, etc.

30. It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo de se*, to inquire of treasure-trove or wrecks, to seize any fugitive's goods, to execute process or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Felo de se.
Deodands.

A *felo de se* shall not forfeit his goods.
Deodands are hereby abolished.

CHAPTER IV.

CORONERS' JURIES.

Fine on juror
neglecting to
attend.

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

Certificate as
to defaulting
juror.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine, and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

Service of
copy of
certificate.

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

¹ This word "disposal" was substituted for the word "burial" by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 11, post p. 768.

of 1871.]

(Chapter IV.—Coroners' Juries. Chapter V.—Rights and Liabilities of Coroners.—Secs. 33-41.)

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself. Levy of fine.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest, and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act. Jurors not to be summoned twice within the year.

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest. Jurors on inquest on prisoner.

CHAPTER V.

RIGHTS AND LIABILITIES OF CORONERS.

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the Governor General in Council. Coroner's salary.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government. Disbursements to be repaid.

38. Every Coroner may, from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests. * * * Power to appoint deputy.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made. Revocation of appointment.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror. Exemption from serving on juries.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty. Privilege from arrest.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose. Penalty for failure to comply with Act.

¹ The words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office," which were repealed by the Indian Oaths Act, 1873 (10 of 1873), are omitted.

(Chapter V.—Rights and Liabilities of Coroners.—Sec. 42.
Schedules.)

Tender of
amends.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted . . .^a after tender of sufficient amends.

FIRST SCHEDULE.

(Enactments repealed.)

Rep. by the Repealing Act, 1873 (12 of 1873).

SECOND SCHEDULE.

FORM OF INQUISITION.

AN INQUISITION taken at _____ on the _____ day of _____ 187 _____, before *E F*, Coroner of _____, ^a [in the case of *A B*, deceased], upon the oath of *G H, I J, K L*, and *M N* then and there duly sworn and charged to inquire when, how and by what means the said *A B* came to his death.

We, the said jurors, find unanimously (or by a majority of _____) that the death of the said *A B* was caused, on or about the _____ day of _____ 187 _____, by (here state the cause of death as in the following examples)—

1. *Cases of homicide*—a blow on the head with a stick inflicted on him by *C D*, under such circumstances that the act of *C D* was justifiable [or accidental] homicide.
—a stab on the heart with a knife inflicted on him by *C D*, under such circumstances that the act of *C D* was culpable homicide not amounting to murder (or culpable homicide amounting to murder or a rash or negligent act not amounting to culpable homicide)
2. *Cases of accident*—falling out of a boat into the river Hooghly, whereby he was drowned.
—a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. *Cases of suicide*—shooting himself through the head with a pistol.
—arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*—disease of the heart.
—apoplexy.
—sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands—*E F*, Coroner of _____

G H, I J, K L, M N, O P (Jurors).

^a The words "after the expiration of three months from such act or failure, nor," which were repealed by the Indian Limitation Act, 1871 (9 of 1871), are omitted.

^b These words and letters in square brackets were substituted for the words and letters "on view of the body of *A. B.* then and there lying dead" by the Coroners (Amendment) Act, 1908 (4 of 1908), 12, post, p. 758.

ACT 19 OF 1879

(THE RAIPUR AND KHATTRA LAWS ACT, 1879).¹

(29th October, 1879.)

**An Act to amend the law in force in *thanas* Raipur and
Khattra.**

Whereas the territory comprised in the *thana* of Raipur (including the independent police-outpost of Simlapal) and the *thana* of Khattra has been transferred from the district of Manbhūm to the district of Bankura;

Preamble.

And whereas the said territory, when included in the district of Manbhūm, formed portion of the Chota Nagpur Division, which is a scheduled district under Act No. 14 of 1874 (the Scheduled Districts Act, 1874);²

And whereas it is expedient that the law in force in the said territory should be the same as the law in force in the district of Bankura; It is hereby enacted as follows:—

1. This Act may be called the Raipur and Khattra Laws Act, 1879: and it shall come into force at once.

Short title.
Commence-
ment.

2. All enactments which on the first day of October, 1879, were in force in the district of Bankura and not in the said territory shall be deemed to have come into force in the said territory on that day; and all enactments which on that day were in force in the said territory and not in the district of Bankura shall be deemed to have been repealed on and from that day in the said territory.

Laws of
Bankura to
apply.
Other laws
repealed.

3. (*Pending proceedings.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

4. The said territory shall be deemed to have ceased to be a scheduled district on the said first day of October, 1879.

Territory to
cease to be a
scheduled
district.

¹ LEGISLATIVE PAPERS—For Proceedings in Council, see Supplement to Gazette of India, 1879, p. 1376.

LOCAL EXTENT—This Act extends only to the *thanas* of Raipur and Khattra, in the district of Bankura—see the preamble.

² Printed in General Acts, 1868-78, Ed. 1909, p. 441.

ACT 7 OF 1881

[THE BENGAL CESS (AMENDMENT NO. 1) ACT, 1881].¹

(21st January, 1881.)

An Act to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880).

Whereas it is expedient to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880²); It is hereby enacted as follows:—

1. In the said Act, after section 63, the following sections shall be inserted and shall be deemed to have been so inserted on and from the date on which such Act came into force:—

Amendment
of Bengal
Act 9 of
1880.

64A, 64B. (*Printed as part of Ben. Act 9 of 1880, in Vol. II of this Code.*)

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I.—*see post*, p. 734.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1881, Part V, p. 5; and for Proceedings in Council *see ibid*, 1881, Supplement, pp. 15, 20, 97.

LOCAL EXTENT.—Since this Act merely makes textual amendments in Ben. Act 9 of 1880, and contains no “local extent” clause, its local extent must be taken to be the same as that of the Act of 1880 (*see* foot-note to that Act, in Vol. II of this Code).

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² Printed in Vol. II of this Code.

ACT 10 OF 1881

(THE CORONERS ACT, 1881).¹

(25th February, 1881.)

An Act to amend the Coroners Act, 1871,² and for other purposes.

³[Whereas it is expedient to amend the Coroners Act, 1871,⁴ in manner hereinafter appearing; It is hereby enacted as follows :—]

1. This Act may be called "The Coroners Act, 1881."

Short title.

(Commencement.) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

2. (*Repeal.*) **3.** (*Power to alter local limits of jurisdiction of Coroner of Madras.*) **4.** (*Application of sections 133 to 135 of Act 10 of 1872 to area excluded from jurisdiction of Coroner of Madras.*) *Rep. by the Coroners (Madras) Act, 1889 (5 of 1889), s. 3 (2).*

5. In section 8 of the Coroners Act, 1871,⁵ for the words "is informed," the words "has reason to believe" shall be substituted.

Act 4 of 1871, section 8, amended.

6. For the first two clauses of section 17 of the Coroners Act, 1871, the following shall be substituted, that is to say :—

Section 17 of same Act amended.

[Printed *ante*, p. 463.]

7. To section 20 of the Coroners Act, 1871, the following clause shall be added, that is to say :—

Addition to section 20 of same Act.

[Printed *ante*, p. 464.]

8. (*New section substituted for section 9 of Madras Act 8 of 1867.*) *Rep. by the Code of Criminal Procedure, 1882 (Act 10 of 1882).*

9. (*Act 10 of 1872, Schedule V, in part repealed.*) *Rep. by the Code of Criminal Procedure, 1882 (Act 10 of 1882).*

¹ LEGISLATIVE PAPERS. — For Statement of Objects and Reasons, see Gazette of India, 1881, Pt. V, p. 2, and for Proceedings in Council, see *ibid.*, 1881, Supplement, pp. 12, 17, 221, 250.

² LOCAL EXTENT. — This Act, like Act 1 of 1871 (*ante*, p. 461), extends to Calcutta.

³ Printed *ante*, p. 461.

⁴ This preamble was substituted for the original preamble by the Coroners (Madras) Act, 1889. (5 of 1889), s. 3 (1), *post*, p. 623.

ACT 13 OF 1881

(THE FORT WILLIAM ACT, 1881).¹

(11th March, 1881.)

An Act to provide for the better government of Fort William.

Whereas it is expedient to give power to make rules for the better government of Fort William in Bengal, and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; It is hereby enacted as follows:—

1. This Act may be called the Fort William Act, 1881;

And it shall come into force on the first day of April, 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons (other than artificers, labourers, sutlers and followers) to whom the² [Army Act] or the Indian Articles of War, 1869,³ is or are applicable.

2. The Governor General in Council may, from time to time, by notification⁴ in the Gazette of India, define, for the purposes of this Act, the limits of Fort William in Bengal; and in this Act the expression "the Fort" means the area so defined.

3. The Commander-in-Chief in India may, from time to time, with the sanction of the Governor General in Council, make rules, to be in force within the Fort, in regard to the matters specified in the Schedule hereto annexed and other matters of a like nature, and may by such rules prescribe, as penalties for the infringement thereof, fine which may extend to fifty rupees, or imprisonment for a term which may extend to four days, or both.

When a sentence of fine is passed under any such rule, the term for which the Court directs the offender to be imprisoned in default of payment of such fine may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof, in English and such other languages as the Governor General

Preamble.

Short title.
Commence-
ment.

The "Fort."

Commander-
in-Chief may
make rules.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1881, Pt. V, p. 18, and for Proceedings in Council, see *ibid*, 1881, Supplement, pp. 50, 96, 280 and 384.

LOCAL EXTENT.—This Act applies only to Fort William, within the limits defined under section 2.

The Cantonments Act, 1910 (15 of 1910), is in force in Fort William—see s. 1(2) of that Act. For power to declare who should exercise in the Fort the powers conferred by or under that Act, see s. 27 of the Act.

² The words "Army Act," in s. 1, were substituted for the words and figures "Army Discipline and Regulation Act, 1879," by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 760. The Army Act is printed in the Collection of Statutes relating to India, Vol. II, Ed. 1901, p. 614.

³ Act 5 of 1869 has been repealed and re-enacted by the Indian Army Act, 1911 (8 of 1911), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

⁴ For notifications under s. 2, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I Pt. IV.

(Secs. 4-9.)

in Council may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the Officer commanding the Fort may from time to time direct.

Governor General in Council may invest officer with power to try breaches of rules.

4. The Governor General in Council may invest any commissioned officer in Her Majesty's Army with power to try persons charged with any infringement of the rules made under section 3.

The officer so invested is hereinafter called the Fort Magistrate.

Procedure to be followed.

5. In all cases under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and as nearly as may be, follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the ^{5 of 1898} [Code of Criminal Procedure, 1898]; and, subject to the power conferred by ² [section 526 of that Code], every finding, sentence or order of such Magistrate under this Act shall be final.

Power to arrest without warrant.

6. Any police-officer, or any other person empowered in this behalf by the Governor General in Council, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

Power to police-officer to release on bail.

Every person so arrested shall be taken to the police-station within the Fort, and shall be detained there until he gives to the police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before the Fort Magistrate at a time to be specified in such bond, or until he can be brought before such Magistrate.

Jurisdiction of Presidency Magistrates and prosecutions under other laws saved.

7. Nothing in this Act, or in any rule made hereunder shall affect the jurisdiction of the ³ [Presidency Magistrates] or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act:

Provided that no person shall be punished twice for the same offence.

Limitation of time for prosecutions under Act.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

9. (*Validation of penalties heretofore imposed by Garrison Quarter Master.*) Rep. by the Repealing and Amending Act, 1891 (12 of 1891).

¹ These words and figures in square brackets in s. 5 were substituted for the words and figures "Presidency Magistrates Act, 1877" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 760. The Code of Criminal Procedure, 1898, is printed in general Acts, 1898—1903, Ed. 1903, p. 88.

² The words and figures "section 526 of that Code," in s. 5, were substituted for the words and figures "the High Courts Criminal Procedure Act, 1873, section 147" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 760.

³ The words "Presidency Magistrates," in s. 7, were substituted for the words and figures "Magistrates appointed under the Presidency Magistrates Act, 1877," by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 760.

of 1881.]

(Schedule.)

THE SCHEDULE.

(See section 3.)

- (1) Throwing dirt or rubbish of any description into the drains or roads, or anywhere but in the appointed places.
- (2) Removing night-soil without a covering or at unauthorised hours.
- (3) Camp-followers, servants, and others not keeping the godowns they live in clean.
- (4) Performing offices of nature in other than the appointed places.
- (5) Bathing, or washing clothes or animals, in the *cunette* or other unauthorised places.
- (6) Selling unwholesome articles of food, grain or drinks.
- (7) Adulterating food or drinks.
- (8) Making evacuations in unauthorised places.
- (9) Rash or negligent driving.
- (10) Picketing, training or breaking in animals.
- (11) Causing obstruction by vehicles on the road.
- (12) Exposing or hawking articles for sale about the roads and barracks or within the Fort without a Fort pass.
- (13) Beating drums or tom-toms.
- (14) Damaging lamps, posts, masonry or other Government property in any part of the Fort.
- (15) Disorderly behaviour in the public thoroughfares.
- (16) Gambling.
- (17) Spitting *pan* on any of the public staircases, gateways, walls and verandahs, or defacing in any way the walls of barracks, building or gateways.
- (18) Throwing slops into the drains.
- (19) Washing cooking-pots at the water-taps and wasting water.
- (20) Cooking in unauthorised places.
- (21) Hanging clothes to dry on the guns or masonry-work.
- (22) Laying out clothes, accoutrements or stable-bedding after the authorised hours.
- (23) Destroying the trees, bushes or plants, or climbing trees.
- (24) Servants smoking *hookas* in their masters' quarters or cook-houses, or keeping such quarters or cook-houses in an insanitary state.
- (25) Trespassing on parade-grounds, or making foot-paths across the grass-plots.
- (26) Being drunk and incapable.
- (27) Fighting, quarrelling and creating a disturbance, or making unnecessary noise of any kind.
- (28) Affixing bills and papers on any walls in the Fort.
- (29) Cutting grass or interfering with the grass-contractor.
- (30) Declining to show a tin pass when called upon to do so.

(Schedule.)

- (31) Being found in the garrison without a tin pass, or being in possession of a ticket belonging to another.
- (32) Driving vehicles without lights or with insufficiently-greased wheels.
- (33) Swinging or sitting on the chain-fences.
- (34) Interfering in any way with the guns, carriages, or piles of shot and shell on the works, or with the packed ordnance.
- (35) Mounting the ramparts or parapets or entering the embrasures without authority.
- (36) Smuggling liquor into the Fort.
- (37) Burning stable-litter or lighting fires except in authorised places and at authorised hours.
- (38) Carrying lights except in closed lanterns, or letting off fireworks.
- (39) Removing property of any kind or description from the Fort without written authority.
- (40) Allowing animals of any sort to stray into the Fort, or to graze within the same.
- (41) Slaughtering animals or exposing carcasses or offal within the Fort.
- (42) Keeping dogs or poultry in unauthorised places.
- (43) Buying, selling or receiving any portion of a soldier's kit.
- (44) Disobedience of lawful authority in failing to attend to authorised instructions of the police or of the several sentries posted throughout the Fort.
- (45) Occupying buildings of any kind without proper allotment.

ACT 6 OF 1883

[THE CALCUTTA PILOTS (AMENDMENT) ACT, 1883].¹

(23rd February, 1883.)

**An Act to give power to arrest persons whose evidence is
needed under Act 12 of 1859.²**

Whereas it is expedient to empower the Judges holding trials under Act 12 of 1859² (*an Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials; It is hereby enacted as follows:—

1. The following section shall be inserted immediately after section 14 of the said Act, namely:—

15. (Printed *ante*, p. 454.)

2. This Act shall come into force on the first day of January 1884.

Preamble.
**Addition to
Act 12 of
1859, after
section 14.
Commence-
ment.**

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—*see post*, p. 734.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1881, Pt. V, page 161; and for proceedings in Council, *see ibid*, 1881, Supplement, page 279; *ibid*, 1883, Supplement, pages 269 and 265.

LOCAL EXTENT.—The local extent of Act 6 of 1883 is the same as that of Act 12 of 1859, as to which *see* foot-note¹ on page 461, *ante*.

² The Calcutta Pilots Act, 1859. It is printed *ante*, p. 451.

ACT 8 OF 1885

(THE BENGAL TENANCY ACT, 1885)

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1. Acquisition of land for building and other purposes.

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ACT 8 OF 1885

(THE BENGAL TENANCY ACT, 1885)¹.

(14th March 1885)

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal².

Whereas it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal²; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal Tenancy Act, 1885.

(2) [It shall come into force on such date³ (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.]

Short title.
Commence-
ment.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, page 129; for Report of Select Committee, see *ibid*, 1884, Pt. V, page 26; and for Proceedings in Council, see *ibid*, 1883, Supplement, pages 268, 831, 885, 996, 1519 and 2303; *ibid*, 1884, Supplement, pages 633 and 1105; *ibid*, 1885, Supplement, pages 269, 639, 743 and 776.

LOCAL EXTENT.—This Act (except section 81 A) extends to the whole of the former Province of Bengal except the town of Calcutta, the Division of Orissa, and the Scheduled Districts—see s. 1 (3), *post*, p. 492.

The Act has never been extended to the town of Calcutta.

The Act has, with certain exceptions, restrictions and modifications, been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), ss. 5 and 6A, to the Jalpaiguri district—see Vol. IV, Pt. IV.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

Section 31A (1) applies only to districts or parts of districts to which it is extended by the Local Government by notification in the Calcutta Gazette.

COMMENCEMENT.—Act 8 of 1885 was declared to come into force on the 1st November, 1885, by a notification dated the 14th September, 1885—see Calcutta Gazette, 9th *idem*, Part I, page 874. That notification was, however, modified as to the commencement of ss. 61 to 64 and Chapter XII by Act 20 of 1885, s. 1, which enacted that those portions of the Act should come into force on such date, not later than the 1st day of February, 1886, as the Local Government might appoint, or, if no such date was appointed, then on the 1st February, 1886. (No such date was appointed.) Act 20 of 1885 was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

OTHER ENACTMENTS CONTAINING PROVISIONS AS TO LANDLORD AND TENANT.—For a comprehensive view of the several enactments relating to landlord and tenant which are printed in this Code, see the head "Landlord and Tenant," and cross-references therefrom, in the index at the end of Vol. IV of this Code. Other enactments on the subject which are in force in Bengal are—

- | | |
|---|---|
| (1) the Mesne Profits and Improvements Act, 1855 (11 of 1855); | printed in General Acts, 1854-67, Ed. 1909. |
| (2) the Opium Act, 1878 (1 of 1878), ss. 4, 5, 9, 11, 22 (cultivation of the poppy); | ditto, 1868-78, Ed. 1909. |
| (3) the Transfer of Property Act, 1882 (4 of 1882), Ch. V (leases of immoveable property); | ditto, 1879-86, Ed. 1908. |
| (4) the Cantonments (House-accommodation) Act, 1902 (2 of 1902); and | ditto, 1898-1908, Ed. 1909. |
| (5) the Code of Civil Procedure (Act 5 of 1908), ss. 4 and 5 (suits between landlord and tenant); | ditto, 1904-06, Ed. 1909. |

² This includes the present Presidency of Fort William in Bengal, and other territory.

³ See foot-note headed "Commencement," *ante*, on this page.

(Chapter 1.—Preliminary.—Secs. 2, 3.)

Local extent.

(3) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal¹, except

the town of Calcutta,

² [any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884³, or part thereof, and specified in a notification⁴ in this behalf by the Local Government⁵],

Ben. Act.
of 1884

[the Division of Orissa,]⁶ and

the Scheduled Districts⁷ specified in the third Part⁸ of the First Schedule of the Scheduled Districts Act, 1874;

14 of 1874

[and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.]

* [Explanation.—The words “the town of Calcutta” mean, subject to the exclusion or inclusion of any local area by notification under section 637 of the Calcutta Municipal Act, 1899, the area described in Schedule I to that Act.]

Ben. Act.
of 1899

Repeal.

2. (1) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.

(2) [When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion, shall be repealed in that Division or part.]

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(4) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “estate” means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time

¹ This includes the present Presidency of Fort William in Bengal, and other territory.

² These words in square brackets in section 1 (3) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 3 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy Act (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 3, in Vol. III of this Code.

³ Printed in Vol. II of this Code.

⁴ As to the effect of such notifications, see s. 19 (2), post, p. 508.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, items 1 and 2, post, pp. 774 and 776.

⁶ This Act was, with certain exceptions, restrictions and modifications, been extended to the Jalpaiguri District—see Vol. IV, Pt. IV.

⁷ Printed in General Acts, 1868-78, Ed. 1909, p. 446.

⁸ This Explanation was added to s. 1 (3) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 3 (2), in Vol. III of this Code.

of 1885.]

(Chapter I.—Preliminary—Sec. 3.)

being in force by the Collector of a district, and includes Government *khas mahals* and revenue-free lands not entered in any register;

(2) “proprietor” means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(3) “tenant” means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person;

(4) “landlord” means a person immediately under whom a tenant holds, and includes the Government;

(5) “rent” means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

in sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII, ¹[Chapter XIV] and Schedule III of this Act, “rent” includes also money recoverable under any enactment for the time being in force as if it was rent;

(6) “pay,” “payable” and “payment,” used with reference to rent, include “deliver,” “deliverable” and “delivery”;

(7) “tenure” means the interest of a tenure-holder or an under-tenure-holder;

(8) “permanent tenure” means a tenure which is heritable and which is not held for a limited time;

(9) “holding” means a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy;

²(10) “village” means the area defined, surveyed and recorded as a distinct and separate village in—
³(10) “village” means the area defined, surveyed and recorded as a distinct and separate village in—

(a) the general land-revenue survey *which has been made of the Province of Bengal, or*

(b) any survey made by the Government which may be adopted by notification in the Calcutta Gazette as defining

(a) the general land-revenue survey *of the districts which heretofore formed part of the Province of Bengal, or*

(b) any survey made by the Government which may be adopted by notification in the Eastern Bengal and Assam

¹ The word and figures “Chapter XIV” in clause (5) of section 3 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 4 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 4 (1), in Vol. III of this Code.

² This clause (10) applies to Western Bengal. It was substituted for the original clause (10) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 4 (2), in Vol. III of this Code.

³ This clause (10) applies to Eastern Bengal. It was substituted for the original clause (10) by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 4 (2), in Vol. III of this Code.

The differences in section 3 (10), as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

(Chapter I.—Preliminary.—Sec. 3.)

villages for the
purposes of this
clause in any
specified area ;

Gazette¹ as defining
villages for the
purposes of this
clause in any speci-
fied area ;

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order,² declare to constitute a village.

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue,³ by general or special order, declare to constitute a village :

Provided that, when an order has been made under section 101 directing that a survey be made and a record-of-rights prepared in respect of any local area, estate, tenure or part thereof, the Government⁴ may, by notification in the Eastern Bengal and Assam Gazette,¹ declare that in such local area, estate, tenure or part thereof "village" shall mean the area which for the purposes of such survey and record-of-rights may be adopted by the Revenue-officer with the sanction of the Board of Revenue³ as the unit of survey and record.

(11) "agricultural year" means, where the Bengali year prevails, the year commencing on the first day of *Baisakh*,⁵ where the *Fasli* or *Amli* year prevails, the year commencing on the first day of *Asin*⁶, and, where any other year prevails for agricultural purposes, that year ;

(12) "Permanent Settlement" means the Permanent Settlement of Bengal, [*Bihar and Orissa*,] made in the year 1793 ;

(13) "succession" includes both intestate and testamentary succession ;

¹ Now the Calcutta Gazette—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 7, *post*, pp. 774 and 776.

² For a list of orders made under the last paragraph of section 3 (10) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 8, *post*, pp. 774 and 776.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 2, *post*, pp. 774 and 776.

⁵ The month of *Baisakh* corresponds with the last part of April and the first part of May.

⁶ The month of *Asin* corresponds with the last part of September and the first part of October.

of 1885.]

(Chapter II.—Classes of Tenants.—Sec. 4.)

(14) "signed" includes "marked," when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to;

(15) "prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette;

(16) "Collector" means the Collector of a district or any other officer appointed¹ by the Local Government to discharge any of the functions of a Collector under this Act;

(17) "Revenue-officer," in any provision of this Act, includes any officer whom the Local Government may appoint,² by name or by virtue of his office, to discharge any of the functions of a Revenue-officer under that provision;

(18) "registered" means registered under any Act³ for the time being in force for the registration of documents.⁴

CHAPTER II.

CLASSES OF TENANTS.

4. There shall be, for the purposes of this Act, the following classes of tenants (namely) :—

- (1) tenure-holders, including under-tenure-holders,
- (2) *raiyats*, and
- (3) under-*raiyats*, that is to say, tenants holding, whether immediately or mediately, under *raiyats*;

and the following classes of *raiyats* (namely) :—

- (a) *raiyats* holding at fixed rates, which expression means *raiyats* holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity.
- (b) occupancy-*raiyats*, that is to say, *raiyats* having a right of occupancy in the land held by them, and
- (c) non-occupancy-*raiyats*, that is to say, *raiyats* not having such a right of occupancy.

¹ For a list of orders made under section 3 (16) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² For an order made under section 3 (17) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ See now the Indian Registration Act, 1908 (16 of 1908), in General Acts, 1904-09, Ed. 1909.

p 560

⁴ Further definitions are given in the following sections, namely :—

s. 5 ("tenure-holder" and "*raiyat*");

s. 20 ("settled *raiyat*");

s. 41 ("non-occupancy-*raiyat*");

s. 47 ("admitted to occupation");

s. 76 ("improvement");

s. 160 ("protected interests");

s. 161 ("incumbrance" and "registered and notified incumbrance").

(Chapter II.—Classes of Tenants. Chapter III.—Tenure-holders.—Secs. 5, 6.)

Meaning of
"tenure-
holder" and
"raiyat."

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "*Raiyat*" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a *raiyat* unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a *raiyat*, the Court shall have regard to—

- (a) local custom; and
- (b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard *bighas*, the tenant shall be presumed to be a tenure-holder until the contrary is shown.

CHAPTER III.

TENURE-HOLDERS.

Enhancement
of rent.

Tenure held
since
Permanent
Settlement
liable to
enhancement
only in
certain cases.

Enhancement of rent.

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

- (a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or
- (b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

of 1885.]

(Chapter III.—Tenure-holders.—Secs. 7-10.)

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity. Limits of enhancement of rent of tenures.

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than 10 *per centum* of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them and shall have regard to—

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached. Power to order gradual enhancement.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced. Rent once enhanced may not be altered for fifteen years.

*Other incidents of tenures.*Other incidents of tenures.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected: Permanent tenure-holder not liable to ejectment.

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

(Chapter III.—Tenure-holders.—Secs. 11, 12.)

Transfer and
transmission
of permanent
tenure.

Voluntary
transfer of
permanent
tenure.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

¹ 12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by a sale in execution of a decree or by summary sale under any law relating to *patni* or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or ² [usufructuary] mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(a) when rent is payable in respect of the tenure, a fee of two *per centum* on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees;

³ [together with the costs necessary for the transmission of the landlord's fee to the landlord.]

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee ⁴ [the costs necessary for the transmission of the same] and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be ⁵ [transmitted] to, and the notice to be served on, the landlord ⁶ [named in the notice], in the prescribed manner.

¹ As to the validation of certain transfers made under section 12, 13, 17 or 18, see the Bengal Tenancy, (Validation and Amendment) Act, 1908 (Ben. Act 1 of 1908), s. 1, in Vol. III of this Code; and as to payment of fees under those sections, see *ibid.*, s. 2.

² This word "usufructuary" in s. 12 (2) was inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 1, *post*, p. 607.

³ These words in square brackets were added to section 12 (2), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 5 (1), in Vol. III of this Code.

⁴ The words "the costs necessary for the transmission of the same", in section 12 (3), were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (i), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 5 (2) (i), in Vol. III of this Code.

⁵ This word "transmitted" in section 12 (3) was substituted for the word "paid," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (ii), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 5 (2) (ii), in Vol. III of this Code.

⁶ The words "named in the notice" in section 12 (3) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (iii), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 5 (2) (iii), in Vol. III of this Code.

of 1885.]

(Chapter III.—Tenure-holders.—Secs. 13, 14.)

¹13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, ²[or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,] the Court shall, before confirming the sale under section 312³ of the Code of Civil Procedure, ⁴[or making a decree or order absolute for the foreclosure,] require the purchaser ⁵[or mortgagee] to pay into Court the landlord's fee prescribed by the last foregoing section, ⁶[together with the costs necessary for its transmission to the landlord,] and such further fee for service of notice of the sale ⁷[or final foreclosure] on the landlord as may be prescribed.

Transfer of permanent tenure by sale in execution of decree other than decree for rent.

(2) When the sale has been confirmed, ⁸[or the decree or order absolute for the foreclosure has been made,] the Court shall send to the Collector the landlord's fee, ⁹[the costs necessary for the transmission of the same,] and a notice of the sale ¹¹[or final foreclosure] in the prescribed form, and the Collector shall cause the fee to be ¹¹[transmitted] to, and the notice to be served on, the landlord ¹²[named in the notice], in the prescribed manner.

14. (*Transfer of permanent tenure by sale in execution of decree for rent.*) *Rep. in Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 2; and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 2.*

¹As to the validation of certain transfers made under section 12, 13, 17 or 18, see the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act I of 1903), s. 1, in Vol. III of this Code, and as to payment of fees under those sections, see *ibid.*, s. 2.

²These words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (1), *post*, p. 607.

³Act 11 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 92 in Order XXI in Sch. I to that Code—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴These words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (2), *post*, p. 607.

⁵These words "or mortgage" in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (3), *post*, p. 607.

⁶The words "together with the costs necessary for its transmission to the landlord", in section 13 (1), were inserted for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 6 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908) s. 6 (1), in Vol. III of this Code.

⁷These words "or final foreclosure" in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (4), *post*, p. 607.

⁸These words in square brackets in s. 13 (2) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (5), *post*, p. 607.

⁹The words "the costs necessary for the transmission of the same," in section 13 (2), were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 5 (2) (i), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 5 (2) (i), in Vol. III of this Code.

¹⁰These words "or final foreclosure" in s. 13 (2) were inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 2 (6), *post*, p. 607.

¹¹This word "transmitted" in section 13 (2) was substituted for the word "paid," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 5 (2) (ii), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 5 (2) (ii), in Vol. III of this Code.

¹²The words "named in the notice," in section 13 (2), were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 5 (2) (iii), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act I of 1908), s. 5 (2) (iii), in Vol. III of this Code.

(Chapter III.—Tenure-holders. Chapter IV.—*Raiyats*
Holding at fixed rates.—Secs. 15-18.)

Succession to
permanent
tenure.

¹ 15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee prescribed by section 12. ² [together with the costs necessary for its transmission to the landlord], and the Collector shall cause the landlord's fee to be ³ [transmitted] to, and the notice to be served on, the landlord ⁴ [named in the notice], in the prescribed manner.

Bar to
recovery of
rent, pending
notice of
succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice, ⁵ [fees and costs] referred to in the last foregoing section.

Transfer of,
and succession
to, share
in permanent
tenure.

⁶ 17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

Raiyats HOLDING AT FIXED RATES.

Incidents of
holding at
fixed rates.

¹, ² 18. A *raiya* holding at a rent, or rate of rent, fixed in perpetuity—

- (a) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure; and
- (b) shall not be ejected by his landlord, except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

¹ As to payment of fees under sections 15 and 18 to the Registrar of Mutations under the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), see s. 20 of that Act, in Vol. III of this Code.

² The words "together with the costs necessary for its transmission to the landlord", in section 15, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 6 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. and A. Act 1 of 1908), s. 6 (1), in Vol. III of this Code.

For further provisions as to landlords' fees, see Ch. IV A., *post*, p. 501.

³ This word "transmitted", in section 15, was substituted for the word "paid," for Western Bengal, by the Bengal Tenancy Act, 1907 (Ben. Act 1 of 1907), s. 6 (2) (i), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908) s. 6 (2) (i), in Vol. III of this Code.

⁴ The words "named in the notice," in section 15, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 6 (2) (ii), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 6 (2) (ii), in Vol. III of this Code.

⁵ The words "fees and costs," in section 16, were substituted for the words "and fees," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 7, in Vol. III of this Code.

⁶ As to the validation of transfers made under s. 17 or 18, see foot-note ¹ on p. 499, *ante*.

As to the forfeiture of fees deposited under ss. 12, 13, 15, 17 and 18 (a), see s. 18C, *post*, p. 502, and s. 189 (2), *post*, p. 598.

of 1885.]

(Chapter IV A.—Provisions as to transfers of tenures and holdings and landlord's fees.—Secs. 18 A, 18 B.)

CHAPTER IV A.

CHAPTER IV A.

PROVISIONS AS TO TRANSFERS
OF TENURES AND HOLDINGS
AND LANDLORD'S FEES.

PROVISIONS AS TO TRANSFERS
OF TENURES AND HOLDINGS
AND LANDLORD'S FEES.

Saving as to
statements in
instruments of
transfer where
landlord no
party

18 A. Nothing contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord of the permanence, amount or fixity of rent, area, transferability or any incident of any tenure or holding referred to in such instrument.

Saving as to
acceptance of
landlord's
fees

18 B. The acceptance by a landlord of any landlord's fee payable under Chapter III or Chapter IV in respect of any tenure or holding shall not operate—

(a) as an admission *as to* the permanence, amount or fixity of rent, area, transferability or any incident of such tenure or holding, or

(b) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of the rent payable in respect thereof.

18 A. *Notwithstanding anything contained in section 13³ of the Indian Evidence Act*, nothing contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord of the permanence, *the* amount or fixity of rent, *the* area, *the* transferability or any incident of any tenure or holding referred to in such instrument.

Saving as to
statements in
instruments of
transfer where
landlord no
party.
1 of 1872.

18 B. The acceptance by a landlord of any landlord's fee payable under Chapter III or Chapter IV in respect of any tenure or holding shall not operate—

Saving as to
acceptance of
landlord's
fees.

(a) as an admission *of* the permanence, *the* amount or fixity of rent, *the* area, *the* transferability or any incident of such tenure or holding, or

(b) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of *the* rent payable in respect thereof.

¹ This Chapter IV A (sections 18 A to 18 C) applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 8, in Vol. III of this Code.

² This Chapter IV A (sections 18 A to 18 C) applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 8, in Vol. III of this Code.

The differences in the Chapter as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

³ Section 13 of Act 1 of 1872 is printed in General Acts, 1868-78, Ed. 1909, p. 207.

(Chapter IV A.—Provisions as to transfers of tenures and holdings and landlord's fees. Chapter V.—Occupancy-raiyats.—Secs. 18 C, 19.)

Forfeiture of unclaimed landlord's fees.

Ben. Act 1 of 1907.

¹18 C. All landlord's fees paid under Chapter III or Chapter IV which are held in deposit on or after the commencement of the *Bengal Tenancy (Amendment) Act, 1907*,² may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12, section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government.

¹18 C. All landlord's fees paid under Chapter III or Chapter IV, which are held in deposit on or after the commencement of the *Eastern Bengal and Assam Tenancy (Amendment) Act, 1908*,⁴ may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12, section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government.

Forfeiture of unclaimed landlord's fees.

E. B. & A. Act 1 of 1908.

CHAPTER V.

OCCUPANCY-RAIYATS

General.

General.

Continuance of existing occupancy rights.

Ben. Act 1 of 1907.

¹19. (1) Every raiyat who, immediately before the commencement of this Act² or the *Bengal Tenancy (Amendment) Act, 1907*,³ has, by the operation of any enactment, by custom, or otherwise, a right of occupancy in any land, shall, when this Act² or the *Bengal Tenancy (Amendment) Act, 1907*,³ comes into force, have a right of occupancy in that land.

¹19. (1) Every raiyat who, immediately before the commencement of this Act has, by the operation of any enactment, by custom, or otherwise, a right of occupancy in any land, shall, when this Act comes into force, have a right of occupancy in that land.

Continuance of existing occupancy rights

Ben. Act 1 of 1907.

¹ This s. 18 C is new, and applies to Western Bengal—see foot-note on last page.
² This s. 18 C is new, and applies to Eastern Bengal—see foot-note on last page.
 The differences in the section as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.
³ Ben. Act 1 of 1907 is printed in Vol. III of this Code.
⁴ E. B. & A. Act 1 of 1908 is printed in Vol. III of this Code.
⁵ Chapter V does not confer a right of occupancy in certain lands—see s. 116, post p. 561.
⁶ This section 19 applies to Western Bengal. The original section 19 was re-numbered 19 (1) by the *Bengal Tenancy (Amendment) Act, 1907* (Ben. Act 1 of 1907), s. 9 (1), in Vol. III of this Code.
⁷ This section 19 applies to Eastern Bengal. The original section 19 was re-numbered 19 (1) by the *Eastern Bengal and Assam Tenancy (Amendment) Act, 1908* (E. B. & A. Act 1 of 1908), s. 9 (1), in Vol. III of this Code.
⁸ The differences in section 19, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.
⁹ The words and figures "or the *Bengal Tenancy (Amendment) Act, 1907*," in this section 19, were inserted, for Western Bengal, by the *Bengal Tenancy (Amendment) Act, 1907* (Ben. Act 1 of 1907), s. 9 (2), in Vol. III of this Code.

of 1885.]

(Chapter V.—Occupancy-Raiyats.—Sec. 20.)

¹(2) The exclusion from the operation of this Act, by a notification under sub-section (3) of section 1, of any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884³, or of any part of such area, *or the inclusion of any area in the town of Calcutta by notification under section 637 of the Calcutta Municipal Act, 1899*,⁴ shall not affect any right, obligation or liability previously acquired, incurred or accrued in reference to such area.

Ben. Act 3 of 1884

Ben. Act 3 of 1899

²(2) The exclusion from the operation of this Act, by a notification under sub-section (3) of section 1, of any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884³, or of any part of such area, shall not affect any right, obligation or liability previously acquired, incurred or accrued in reference to such area.

Ben. Act 3 of 1884.

20. (1) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a *raiayat* land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled *raiayat* of that village.

Definition of "settled raiyat"

(2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this section, to have held as a *raiayat* any land held as a *raiayat* by a person whose heir he is.

(4) Land held by two or more co-sharers as a *raiayati* holding shall be deemed, for the purposes of this section, to have been held as a *raiayat* by each such co-sharer.

(5) A person shall continue to be a settled *raiayat* of a village as long as he holds any land as a *raiayat* in that village and for one year thereafter.

(6) If a *raiayat* recovers possession of land under section 87, he shall be deemed to have continued to be a settled *raiayat* notwithstanding his having been out of possession more than a year.

(7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a *raiayat*, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purposes of this section, until the contrary⁵

¹This sub-section (2) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 9 (3), in Vol. III of this Code.

²This sub-section (2) was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 9 (2), in Vol. III of this Code.

The differences in section 19, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

³Printed in Vol. II of this Code.

⁴Printed in Vol. III of this Code.

(Chapter V.—Occupancy-Raiyats.—Secs. 21, 22.)

is proved or admitted, that he has for twelve years continuously held that land or some part of it as a *raiayat*.

Settled
raiayats to
have
occupancy-
rights.

21. (1) Every person who is a settled *raiayat* of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a *raiayat* in that village.

(2) Every person who, being a settled *raiayat* of a village within the meaning of the last foregoing section, held land as a *raiayat* in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of
acquisition of
occupancy-
right by land-
lord.

22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the *raiayat* in the holding become united in the same person by transfer, succession or otherwise, ³[such person shall have no right to hold the land as a *tenant*, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)]; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, ⁶[*he shall be entitled to hold the land subject to the payment to his co-proprietors or joint*

22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the *raiayat* in the holding become united in the same person by transfer, succession or otherwise, ⁴[such person shall have no right to hold the land as a *raiayat*, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)]; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, ⁶[*such person shall have no right to hold the land as a *raiayat*, but shall hold it as a proprietor*

Effect of
acquisition of
occupancy-
right by land-
lord

¹ This section 22 applies to Western Bengal. | ² This section 22 applies to Eastern Bengal
The differences in section 22, as in force in Western Bengal and in Eastern Bengal respectively, lie in the words printed in italics.

³ These words in square brackets in this section 22 (1) were substituted for the words "the occupancy-right shall cease to exist," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 10 (a), in Vol. III of this Code.

⁴ These words in square brackets in this section 22 (1) were substituted for the words "the occupancy-right shall cease to exist," for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 10 (a), in Vol. III of this Code.

⁵ The portion of this section 22 (2) which is printed in square brackets on this page and the next page was substituted for the words "it shall cease to exist, but nothing in this sub-section shall prejudicially affect the rights of any third person," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 10 (b), in Vol. III of this Code.

⁶ The portion of this section 22 (2) which is printed in square brackets on this page and the next page was substituted for the words "it shall cease to exist, but nothing in this sub-section shall prejudicially affect the rights of any third person," for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 10 (b), in Vol. III of this Code.

of 1885.]

(Chapter V.—Occupancy-Raiyats.—Sec. 22.)

permanent tenure-holders of the shares of the rent which may be from time to time payable to them; and, if such transferee sub-lets the land to a third person, such third person shall be deemed to be a tenure-holder or a raiyat, as the case may be, in respect of the land.

Illustration—A, a co-sharer landlord, purchases the occupancy-holding of a raiyat X. A is entitled himself to hold the land on payment to his co-sharers of the shares of the rent payable to them in respect of the holding. A sub-lets the land to Y, who takes it for the purpose of establishing tenants on it; Y becomes a tenure-holder in respect of the land. Or A sub-lets it to Z, who takes it for the purpose of cultivating it himself; Z becomes a raiyat in respect of the land.]

or permanent tenure-holder, as the case may be, and shall pay to his co-sharers a fair and equitable sum for the use and occupation of the same.]

¹(3) In determining from time to time what is a fair and equitable sum under sub-section (2), regard shall be had to the rent payable by the occupancy-raiyat at the time of the transfer, and to the principles of this Act regulating the enhancement or reduction of the rents of occupancy-raiyats.

(3) A person holding land as an ijaradar or farmer of rents shall not, while so holding, acquire,² [by purchase or otherwise], a right of occupancy in any land comprised in his ijara or farm.

³(4) A person holding land as an ijaradar or farmer of rents shall not, while so holding, acquire,⁴ [by purchase or otherwise], a right of occupancy in any land comprised in his ijara or farm.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijara or farm.

¹This sub-section (3) was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 10 (c), in Vol. III of this Code.

²These words in square brackets in this section 22 (3) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 10 (c), in Vol. III of this Code.

³The original sub-section (3) was re-numbered as sub-section (4), for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 10 (d), in Vol. III of this Code.

⁴These words in square brackets in this section 22 (4) were inserted, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 10 (e), in Vol. III of this Code.

The differences in section 22, as in force Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

(Chapter V.—Occupancy-Raiyats.—Secs. 23-29.)

*Incidents of
occupancy-
right*Rights of
raiayat in
respect of
use of land*Incidents of occupancy-right.*

23. When a *raiayat* has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Obligation of
raiayat to pay
rent.Protection
from eviction
except on
specified
grounds

24. An occupancy-*raiayat* shall pay rent for his holding at fair and equitable rates.

25. An occupancy-*raiayat* shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

- (a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or
- (b) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of
occupancy-
right on
death

26. If a *raiayat* dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that in any case in which under the law of inheritance to which the *raiayat* is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

*Enhancement
of rent*Presumption
as to fair and
equitable
rent.Restriction on
enhancement
of money-
rents.Enhancement
of rent by
contract.*Enhancement of rent.*

27. The rent for the time being payable by an occupancy-*raiayat* shall be presumed to be fair and equitable until the contrary is proved.

28. Where an occupancy-*raiayat* pays his rent in money, his rent shall not be enhanced except as provided by this Act.

29. The money-rent of an occupancy-*raiayat* may be enhanced by contract, subject to the following conditions:—

- (a) the contract must be in writing and registered;
- (b) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the *raiayat*;
- (c) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract;

Provided as follows—

- (i) Nothing in clause (a) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

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(Chapter V.—Occupancy-Raiyats—Sec. 30.)

- (ii) Nothing in clause (b) shall apply to a contract by which a *raiayat* binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the *raiayat* is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and except when the *raiayat* is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.
- (iii) When a *raiayat* has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (b) shall prevent the *raiayat* from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

30. The landlord of a holding held at a money-rent by an occupancy-*raiayat* may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds (namely):—

Enhancement
of rent by
suit

- ¹ [(a) that the rate of rent paid by the *raiayat* is below the prevailing rate paid by occupancy-*raiayats* for land of a similar description and with similar advantages in the same village or in neighbouring villages, and that there is no sufficient reason for his holding at so low a rate;]
- (b) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;
- (c) that the productive powers of the land held by the *raiayat* have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;
- (d) that the productive powers of the land held by the *raiayat* have been increased by fluvial action.

Explanation.—“Fluvial action” includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

¹ This clause (a) in s. 30 was substituted for the original clause (a) by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 2, in Vol. III of this Code. The original clause ran thus:—

“(a) that the rate of rent paid by the *raiayat* is below the prevailing rate paid by occupancy-*raiayats* for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate.”

(Chapter V.—Occupancy-Raiyats.—Secs. 31, 31 A.)

Rules as to
enhancement
on ground of
prevailing
rate.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

- (a) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the *raiayat* and the prevailing rate found by the Court;
- (b) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure¹ by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;²
- (c) in determining under this section the rate of rent payable by a *raiayat*, his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and, whenever it is found that by local custom any description of *raiayats* hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;
- (d) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration;
- ³ [(e) if a favourable rate has been determined under clause (c) for any description of *raiayats*, such rate may, if the Court thinks fit, be left out of consideration in ascertaining the prevailing rate;
- ³ (f) if the holding is held at a lump rental, the determination of the rent to be paid may be made by ascertaining the different classes of land comprised within the holding, and applying to the area of each class the prevailing rate paid on that class within the village or neighbouring villages.]

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What may be
taken in cer-
tain districts
to be the
“prevailing
rate.”

‘31A. (1) In any district or part of a district to which this sub-section is extended by the Local Government by notification in the Calcutta Gazette, whenever the prevailing rate for any class of land is to be ascertained under section 30, clause

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to section 78 of, and Order XXVI in Sch. I to, that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

² This reference should now be taken to be made to rule 9 in Order XXVI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ Clauses (e) and (f) were inserted in s. 31 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 3, in Vol. III of this Code.

⁴ Section 31A was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 4, in Vol. III of this Code.

of 1885.]

(Chapter V.—Occupancy-Raiyats.—Sec. 31 B.)

(a), by an examination of the rates at which lands of a similar description and with similar advantages are held within any village or villages, the highest of such rates at which and at rates higher than which the larger portion of those lands is held may be taken to be the prevailing rate.

Illustrations.

(a) The rates at which land of a similar description and with similar advantages is held in a village are as follow —

<i>Bighas.</i>					Rs. A. P.
100	...	...	...	at	1 0 0
200	...	...	...	"	1 8 0
150	...	...	...	"	1 12 0
100	...	...	...	"	2 0 0
150	...	...	...	"	2 4 0
Total	700				

Then Rs. 2.4 is not the prevailing rate, because only 150 *bighas*, or less than half, are held at that rate. Rs. 2 is not the prevailing rate, because 250 *bighas*, or less than half, are held at that or a higher rate. Re. 1.12 is the prevailing rate, because 400 *bighas*, or more than half, are held either at this or a higher rate, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

(b) The rates at which land of a similar description and with similar advantages is held in a village are as follow .—

<i>Bighas.</i>					Rs. A. P.
100	...	...	...	at	1 0 0
250	...	...	...	"	1 4 0
150	...	...	...	"	1 8 0
150	...	...	...	"	1 12 0
50	...	...	...	"	2 0 0
Total	700				

Then, for the reasons given in Illustration (a), neither Rs. 2 nor Re. 1.12 is the prevailing rate, nor is Re. 1.8 the prevailing rate, because only 350 *bighas* (exactly half) are held at Re. 1.8 or at rates higher than Re. 1.8. In this case Re. 1.4 is the prevailing rate, because more than half the lands are held at Re. 1.4 or higher rates, and this is the highest rate at which, and at rates higher than which, more than half the land is held.

(2) The Local Government may, by a like notification, withdraw sub-section (1) from any district or part of a district to which it has been extended as aforesaid.

31B. When the prevailing rate has once been determined by a Revenue-officer under Chapter X or by a Civil Court in any suit under this Act, it shall not be liable to enhancement save on the ground and to the extent specified in section 30, clause (b), and section 32.

Liability
enhancement
of prevailing
rate.

¹ Section 31B was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben Act 3 of 1898), s. 4, in Vol. III of this Code.

(Chapter V.—Occupancy-Raiyats.—Secs. 32-34.)

Rules as to
enhancement
on ground of
rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

- (a) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;
- (b) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;
- (c) If in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (a), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to
enhancement
on ground of
landlord's im-
provement.

33. (1) Where an enhancement is claimed on the ground of a landlord's improvement—

- (a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;
- (b) in determining the amount of enhancement the Court shall have regard to—
 - (i) the increase in the productive powers of the land caused or likely to be caused by the improvement,
 - (ii) the cost of the improvement,
 - (iii) the cost of the cultivation required for utilizing the improvement, and
 - (iv) the existing rent and the ability of the land to bear a higher rent.

(2) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to
enhancement
on ground of
increase in
productive
powers due to
fluvial action.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

- (a) the Court shall not take into account any increase which is merely temporary or casual;
- (b) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

of 1885.]

(Chapter V.—Occupancy-Raiyats.—Secs. 35-39.)

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Enhancement by suit to be fair and equitable

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the *raiyyat*, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Power to order progressive enhancement

37. (1) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

Limitation of right to bring successive enhancement-suits

(2) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.¹

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Reduction of rent.

Reduction of rent

38. (1) An occupancy-*raiyyat* holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise (namely):—

Reduction of rent

(a) on the ground that the soil of the holding has without the fault of the *raiyyat* become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(b) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price-lists.

39. (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the

Price-lists of staple food-crops.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 1 in Order XXIII in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Chapter V.—Occupancy-Raiyats.—Sec. 40.)

Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct¹ [and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct] unless and until it is proved that they are incorrect.

(7) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

Commutation.

Commutation
of rent
payable
in kind.

40. (1) Where an occupancy-*raiayat* pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another,² [or partly in any of those ways and partly in cash], either the *raiayat* or his landlord may apply to have the rent commuted to a money-rent.

¹ These words in square brackets in s. 39 (6) were inserted by the Bengal Tenancy (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 5, in Vol. III of this Code.

² The words "or partly in any of those ways and partly in cash," in s. 40 (1), were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 11 (i), in Vol. III of this Code.

of 1885.]

(Chapter V.—Occupancy-Raiyats.—Sec. 40.)

(2) The application may be made to the Collector or Sub-divisional Officer, or to ¹[a Revenue-officer appointed by the Local Government ² under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights] under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the *raiyyat* shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

- (a) the average money-rent payable by occupancy-*raiyyats* for land of a similar description and with similar advantages in the vicinity;
- (b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; ³
- (c) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; ⁴ [and
- (d) improvements effected by the landlord or by the occupancy-*raiyyat* in respect of the *raiyyat*'s holding, and to the rules laid down in section 33 regarding enhancement of rent on the ground of a landlord's improvement].

(5) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(6) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

¹ These words in square brackets in s. 40 (2) were substituted for the words "an officer making a settlement of rents," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (i), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 11 (i), in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, *post*, pp. 774 and 776.

³ The word "and," in clause (b), was repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (iii), and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 11 (iii), in Vol. III of this Code.

⁴ These words in square brackets were added to section 40 (4), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (ie), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 11 (ie), in Vol. III of this Code.

(Chapter V.—Occupancy-Raiyats. Chapter VI.—Non-occupancy-Raiyats.—Secs. 40 A-44.)

Period for which commuted rents are to remain unaltered

¹ **40A.** (1) Where the rent of a holding has been commuted under section 40, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration of the area of the holding, be enhanced for fifteen years; nor shall it be reduced for fifteen years, save on the ground of alteration in the area of the holding, or on the ground specified in clause (a) of sub-section (1) of section 38.

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (5) of section 40.

² CHAPTER VI.

NON-OCCUPANCY-RAIYATS

Application of Chapter.

41. This Chapter shall apply to *raiya*ts not having a right of occupancy, who are in this Act referred to as non-occupancy-*raiya*ts.

Initial rent of non-occupancy-*raiya*t

42. When a non-occupancy-*raiya*t is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Conditions of enhancement of rent.

43. The rent of a non-occupancy-*raiya*t shall not be enhanced except by registered agreement or by agreement under section 46:

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

Grounds on which non-occupancy-*raiya*t may be ejected.

44. A non-occupancy-*raiya*t shall, subject to the provisions of this Act, be liable to ejection on one or more of the following grounds, and not otherwise (namely):—

- (a) on the ground that he has failed to pay an arrear of rent;
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;
- (c) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;
- (d) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

¹ Section 40A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 13 of 1907), s. 12, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 12, in Vol. III of this Code.

² Chapter VI does not apply to certain lands—see s. 116, *post*, p. 561.

of 1885.]

(Chapter VI.—Non-occupancy-Raiyats.—Secs. 45, 46.)

45. *(Conditions of ejectment on ground of expiration of lease.) Rep. in Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 2, and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.*

46. (1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-*raiayat* unless the landlord has tendered to the *raiayat* an agreement to pay the enhanced rent, and the *raiayat* has within three months before the institution of the suit refused to execute the agreement.

Conditions of
ejectment on
ground of
refusal to
agree to
enhancement.

(2) A landlord desiring to tender an agreement to a *raiayat* under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the *raiayat*. The Court or officer shall forthwith cause it to be served on the *raiayat* in the prescribed manner, and when it has been so served, it shall for the purposes of this section be deemed to have been tendered.

(3) If a *raiayat* on whom an agreement has been served under sub-section (2) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(4) When an agreement has been executed and filed by a *raiayat* under sub-section (3), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the *raiayat* does not execute the agreement and file it under sub-section (3), he shall be deemed for the purposes of this section to have refused to execute it.

(6) If a *raiayat* refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(7) If the *raiayat* agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

(8) If the *raiayat* does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by *raiayats* for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

(Chapter VI.—Non-occupancy-Raiyats. Chapter VII.—Under-Raiyats. Chapter VIII.—General Provisions as to Rent.—Secs. 47-50.)

Explanation of "admitted to occupation."

47. Where a *raiayat* has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this Chapter, notwithstanding that the lease may purport to admit him to occupation.

CHAPTER VII.

UNDER-RAIYATS.

Limit of rent recoverable from under-raiyats.

48. The landlord of an under-*raiayat* holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same (namely):—

- (a) when the rent payable by the under-*raiayat* is payable under a registered lease or agreement—fifty *per cent.*; and
- (b) in any other case—twenty-five *per cent.*

Restriction on ejectment of under-raiyats.

49. An under-*raiayat* shall not be liable to be ejected by his landlord, except—

- (a) on the expiration of the term of a written lease;
- (b) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and presumptions as to amount of rent. Rules and presumptions as to fixity of rent.

Rules and presumptions as to amount of rent.

50. (1) Where a tenure-holder or *raiayat* and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

(2) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or *raiayat* and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed,

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(Chapter VIII.—General Provisions as to Rent.—Secs. 51, 52.)

until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement :

• Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(3) The operation of this section, so far as it relates to land held by a *raiyat*, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(4) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Presumption as to amount of rent and conditions of holding

Alteration of rent on alteration of area.

Alteration of rent on alteration of area.

52. (1) Every tenant shall—

- (a) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made; and
- (b) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

Alteration of rent in respect of alteration in area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

- (a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(Chapter VIII.—General Provisions as to Rent.—Sec. 52.)

- (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;
- (c) the length of time during which the tenancy has lasted without dispute as to rent or area; and
- (d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenureholder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which, under the circumstances of the case, is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

¹(5) [When in a suit under this section the landlord or tenant is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.]

²(6) [When in a suit under this section the landlord or tenant proves that, at the time the measurement on which the claim is based was made, there existed in respect of the estate or permanent tenure or part thereof in which the tenure or holding is situate, a practice of settlement being made after measurement of the land assessed with rent, it may be presumed that the area of the tenure or holding specified in any *patta* or *kabuliyat*, or (where there is an entry of area in a counterfoil receipt corresponding to the entry in the rent-roll) in any rent-roll relating to it has been entered in such *patta*, *kabuliyat* or rent-roll after measurement.]

¹ Sub-section (5) was added to s. 52 by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 6, in Vol. III of this Code.

² Sub-section (6) was added to section 52, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 13, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 13, in Vol. III of this Code.

of 1885.]

(Chapter VIII.—General Provisions as to Rent.—Secs. 53-56.)

*Payment of rent.¹**Payment of
rent.*

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

*Instalments of
rent.*

54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

*Time and
place for
payment of
rent.*

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

Provided that the Local Government may, from time to time, make rules,² either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

*Appropriation
of payments.*

(2) If he does not make any such declaration, the payment may be credited to the account of such year and the instalment as the landlord thinks fit.

³ *Receipts and accounts.**Receipts and
accounts.*

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

*Tenant
making
payment to
his landlord
entitled to a
receipt.*

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form,⁴ either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

¹ The word "rent," in ss. 53 to 55, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 498.

² For rules made under section 54 (2) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ The word "rent," in ss. 56 to 60, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 498.

⁴ For orders made under section 56 (3) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter VIII.—General Provisions as to Rent.—Secs. 57, 58.)

Tenant
entitled to
full discharge
or statement
of account at
close of year.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Penalties and
fine for
withholding
receipts and
statements of
account and
failing to keep
counterparts.

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount of value of that rent, as the Court thinks fit.

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

¹(3) If a landlord or his agent, without reasonable cause, fails to deliver to the tenant a receipt or statement, or to prepare and retain a counterfoil or copy of a receipt or statement, as required by either of the said sections, such landlord or agent, as the case may be, shall be liable to a fine not exceeding fifty rupees, to be imposed, after summary inquiry, by the Collector.

¹(4) The Collector may hold a summary inquiry under sub-section (3), either on information received from a Revenue-officer within one year, or upon complaint of the party aggrieved made within three months, from the date of failure, or upon the report of a Civil Court.

¹(5) Where, in any case instituted under sub-section (3), the Collector discharges any landlord or agent, and is satisfied that the complaint of the tenant on which the proceedings were

¹ The sub-sections (3) to (8) here printed were substituted for the original sub-section (3), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 14, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 14, in Vol. III of this Code. The original sub-section ran thus:—

"(3) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees."

of 1885.]

(Chapter VIII.—General Provisions as to Rent.—Secs. 59-61.)

instituted is false or vexatious, the Collector may, in his discretion, by his order of discharge, direct the tenant to pay to such landlord or agent such compensation, not exceeding fifty rupees, as the Collector thinks fit.

¹(6) An appeal shall lie to the Commissioner of the Division against any order of the Collector imposing a fine under sub-section (3) or awarding compensation under sub-section (5); and the order² passed by the Commissioner on such appeal shall, subject to any order which may be passed on revision by the Board of Revenue,³ be final.

¹(7) Any fine imposed or compensation awarded under this section may be recovered in the manner provided by any law⁴ for the time being in force for the recovery of a public demand.

¹(8) For the purpose of an inquiry under this section, the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents in the same manner as is provided in the case of a Court under the Code of Civil Procedure]⁵.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

Local Government to prepare forms of receipt and account.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876⁶, as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

Effect of receipt by registered proprietor, manager or mortgagee.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of rent.¹

61. (1) In any of the following cases, namely:—

(a) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;

Deposit of rent. Application to deposit rent in Court.

¹ Sub-sections (6) to (8) are new—see foot-note on last page.

² In Bengal Act 1 of 1907, s. 14, this word is printed as "orders."

³ Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 3, *post*, pp. 774 and 776.

⁴ See the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), s. 7, in Vol. III of this Code.

⁵ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see section 168 thereof in General Acts, 1904-09, Ed. 1909, p. 184.

⁶ Printed in Vol. II of this Code.

⁷ The word "rent," in ss. 61 to 64, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5) *ante*, p. 493.

(Chapter VIII.—General Provisions as to Rent.—Sec. 62.)

- (b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;
- (c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf; or
- (d) when the tenant entertains a *bond fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered.

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure¹, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule², directs.

14 of 1882

Receipt
granted by
Court for
rent deposited
to be a valid
acquittance.

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, by the co-sharers to whom the rent is due; and

in case (d) of that section, by the person entitled to the rent.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 15 in Order VI in Sch I to that Code—see s. 168 thereof, in General Acts, 1904-09, Ed. 1909, p. 164.

² For rules made under s. 61 (2) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1885.]

(Chapter VIII.—General Provisions as to Rent.—Secs. 63-65.)

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars. Notification of receipt of deposit.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (a) and (b) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village office or in some conspicuous place in the village in which the holding is situate; and

in case (d) of that section, cause a like notice to be served, free of charge on every person who it has reason to believe claims or is entitled to the deposit.

64. (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled. Payment or refund of deposit.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of rent.¹

65. Where a tenant is a permanent tenure-holder, a *raiyyat* holding at fixed rates or an occupancy-*raiyyat*, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree Arrears of rent.
Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy.

¹The word "rent" in ss. 65 to 68 includes also money recoverable under any enactment for the time being in force as if it was rent—see §. 3 (5), *ante*, p. 498.

(Chapter VIII.—General Provisions as to Rent.—Secs. 66-68.)

for the rent thereof, and the rent shall be a first charge thereon.

Ejection for
arrears in
other cases.

66. (1) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a *raiyat* holding at fixed rates or an occupancy-*raiyat*, at the end of the Bengali year¹ where that year prevails, or at the end of the month of *Jeth*² where the *Fasti* or *Amli* year prevails the landlord may, whether he has obtained a decree for the recovery of the arrear or not and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) In a suit for ejection for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on
arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve ³[and-a-half] *per centum per annum* from the expiration of that quarter of the agricultural year in which the instalment falls due ⁴[to the date of payment or of the institution of the suit, whichever date is earlier.]

Power to
award da-
mages on rent
withheld
without
reasonable
cause, or to
defendant
improperly
sued for rent.

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per centum* on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff, as it thinks fit.

¹ i.e., the month of *Chaitra*, which corresponds with the last part of March and the first part of April.

² The month of *Jeth* corresponds with the last part of May and the first part of June.

³ The words "and-a-half" in section 67 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 15 (a), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 15 (a), in Vol. III of this Code.

⁴ The words "to the date of payment or of the institution of the suit, whichever date is earlier" in section 67, were substituted for the words "to the institution of the suit," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 15 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 15 (b), in Vol. III of this Code.

of 1885.]

(Chapter VIII.—General Provisions as to Rent.—Secs. 69, 70.)

Produce rents.

69. (1) Where rent is taken by appraisement or division of the produce,—

Produce rents.
Order for appraising or dividing produce.

- (a) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or
- (b) if there is a dispute about the quantity, value, or division of the produce,

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Sub-divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

¹(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected; ²[but an order made by the Collector under this sub-section shall not prevent the execution of any order passed by the Court for the distraint of the tenant's crops].

²(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected; ⁴[but an order made by the Collector under this sub-section shall not prevent the execution of any order passed by a Civil Court for the distraint of the tenant's crops].

³[(4) Every officer appointed by the Collector under sub-section (1) to appraise or divide the produce shall, for the purposes of the Indian Penal Code⁶, be deemed to be a public servant.]

70. (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall conform to the instructions so given.

Procedure where officer appointed.

¹ This sub-section (3) applies to Western Bengal.

² This sub-section (3) applies to Eastern Bengal.

The only difference in section 69 (3), as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

³ These words in square brackets were added to this s. 69 (3), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 16 (1), in Vol. III of this Code.

⁴ These words in square brackets were added to this s. 69 (3), for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 16 (1), in Vol. III of this Code.

⁵ Sub-section (4) was added to section 69, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 16 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 16 (2), in Vol. III of this Code.

⁶ Printed in the General Acts, 1834-57, Ed. 1909, p. 248.

(Chapter VIII.—General Provisions as to Rent.—Secs. 71, 72.)

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such inquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for rent on change of landlord or after transfer of tenure or holding. Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

72. (1) *Liability for rent on change of landlord or after transfer of tenure or holding.* A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

¹ The word "rent" in ss. 72 and 78 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 8 (5), *ante*, p. 498.

of 1885.]

(Chapter VIII.—General Provisions as to Rent, Chapter IX.—
Miscellaneous Provisions as to Landlords and Tenants.—
Secs. 73-76.)

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

73. When an occupancy-*raiyat* transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Liability for rent after transfer of occupancy-holding.

¹ *Illegal cesses, etc.*

74. All impositions upon tenants under the denomination of *abwab*, *matthat* or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Illegal cesses, etc.

Abwab, etc., illegal.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent ² [or interest] lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Improvements.

76. (1) For the purposes of this Act, the term "improvement," used with reference to a *raiyat's* holding, shall mean any work which adds to the value of the holding which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Definition of "improvement."

¹ The word "rent" in ss. 74 and 75 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (d), *ante*, p. 493.

² The words "or interest," in section 75, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 17, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 17, in Vol. III. of this Code.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 77-79.)

(2) Until the contrary is shown, the following shall be deemed to be improvements within the meaning of this Act:—

- (a) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto; and
- (f) the erection of a suitable dwelling-house for the *raiyat* and his family, together with all necessary out-offices.

(3) But no work executed by the *raiyat* of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

77. (1) Where a *raiyat* holds at fixed rates or has an occupancy-right in his holding, neither the *raiyat* nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(2) If both the *raiyat* and his landlord wish to make the same improvement, the *raiyat* shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Collector to decide question as to right to make improvement, etc.

78. If a question arises between the *raiyat* and his landlord—

- (a) as to the right to make an improvement, or
- (b) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

Right to make improvements in case of non-occupancy-holding.

79. (1) A non-occupancy *raiyat* shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

of 1885.]

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 80-82.)

(2) A non-occupancy-*raiyat* who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

80. (1) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

Registration of landlord's improvements.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government, from time to time, by rule directs.

(3) The officer receiving the application may reject it if it has not been made within twelve months—

(a) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(b) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

81. (1) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

Application to record evidence as to improvement.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and tenant or any persons claiming under them.

82. (1) Every *raiyat* who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

Compensation for *raiya*t's improvements.

(2) Whenever a Court makes a decree or order for the ejectment of a *raiyat*, it shall determine the amount of compensation (if any) due under this section to the *raiyat* for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the *raiyat*.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 83, 84.)

(3) No compensation under this section for an improvement shall be claimable where the *raiyat* has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(4) Improvements made by a *raiyat* between the second day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(5) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Principle on which compensation is to be estimated.

83. (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the condition of the improvement, and the probable duration of its effects;
- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the *raiyat* in consideration of the improvement; and
- (e) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the *raiyat* has had the benefit of the improvement at an unenhanced rent.

(2) When the amount of the compensation has been assessed, the Court may, if the landlord and *raiyat* agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding

of 1885.]

(Chapter I.V.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 85, 86.)

or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorize the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

*Sub-letting.**Sub-letting.*

85. (1) If a *raiyat* sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

Restrictions on sub-letting.

(2) A sub-lease by a *raiyat* shall not be admitted to registration if it purports to create a term exceeding nine years.

(3) Where a *raiyat* has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

*Surrender and abandonment.**Surrender and abandonment.*
Surrender.

86. (1) A *raiyat* not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But, notwithstanding the surrender, the *raiyat* shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a *raiyat* has surrendered his holding, the Court shall, in the following cases for the purposes of sub-section (2), presume, until the contrary is shown, that such notice was so given, namely:—

(a) if the *raiyat* takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the *raiyat* ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Sec. 87.)

(4) The *raiyat* may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a *raiyat* has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a *raiyat* and his landlord may arrange for a surrender of the whole or a part of the holding.

Abandonment.

87. (1) If a *raiyat* voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the *raiyat* so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office, stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause a notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the *raiyat* shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-*raiyat*, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the *raiyat* did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section, on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the *raiyat* who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that *raiyat*. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

of 1885.]

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 88-90.)

*Sub-division of tenancy.*Division of
tenancy not
binding on
landlord
without his
consent

¹ **88.** A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made ²[with his express consent in writing ³or with that of his agent duly authorized in that behalf.]

⁴ *Provided that, if there is proved to have been made in any landlord's rent-roll any entry showing that any tenure or holding has been divided, or that the rent payable in respect thereof has been distributed, such landlord may be presumed to have given his express consent in writing to such division or distribution.*

*Sub-division
of tenancy.*Division of
tenancy not
binding on
landlord
without his
consent.

² **88.** A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Ejection.

89. No tenant shall be ejected from his tenure of holding except in execution of a decree.

*Ejection.*No ejection
except in
execution of
decree.*Measurements.*

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

*Measure-
ments.*Landlord's
right to
measure land.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely) :—

(a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year

¹ This section 88 applies to Western Bengal.

² This section 88 applies to Eastern Bengal.

The differences in section 88, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

Section 88 is not affected by s. 1 of the Bengal Tenancy (Validation and Amendment) Act 1903 (Ben. Act 1 of 1903)—see s. 3 of that Act, in Vol. III of this Code.

³ These words in square brackets in this section 88 were substituted for the words "with his consent in writing," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 18 (1), in Vol. III of this Code.

⁴ The acceptance of a landlord's fee does not operate as an express consent under section 88—see s. 18B (b), ante, p. 501.

⁵ This proviso was added to this section 88, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 18 (2) in Vol. III of this Code.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 91-93.)

to year, and the rent payable depends on the area;

- (b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation;
- (c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

Power for Court to order tenant to attend and point out boundaries.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

Standard of measurement.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local inquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area; and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Managers.

Power to call upon co-owners to show cause why they should not appoint a common manager.

93. When any dispute exists between co-owners of an estate or tefiure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

(a) inconvenience to the public, or

(b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of any one having an interest in the

of 1885.]

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants.—Secs. 94-98.)

estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.¹

Ben. Act. 7 of
1876

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to order them to appoint a manager, if cause is not shown.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

Power to appoint manager, if order is not obeyed.

(a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(b) in any case appoint a manager.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

Power to nominate person to act in all cases under clause (b) of last section.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards' Act, 1879,¹ as relates to the management of immoveable property shall apply to the management.

The Court of Wards' Act, 1879, applicable to management by Court of Wards.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge, from time to time, directs.

Provisions applicable to manager.

(Chapter IX.—Miscellaneous Provisions as to Landlords and Tenants. Chapter X.—Record-of-rights and Settlement of Rents.—Part I.—Record-of-rights.—Secs. 99-101.)

(2) He shall give such security for the proper discharge of his duties as the District Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge and not otherwise.

Power to
restore
management
to co-owners

¹99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to
make rules.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Part I.—Record-of-rights.

Record-of-
rights.

Power to
order survey
and
preparation of
record-of-
rights.

101. (1) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made and a record-of-rights be prepared by a Revenue-officer, in respect of the lands in any local area, estate or tenure or part thereof.

¹ For a note to s. 99, see the Bengal Wards' Manual, 1909, p. 260.

² For rules made under section 100, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ This Chapter was substituted for the original Chapter X by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 7, in Vol. III of this Code. As regards proceedings under ss. 104, 105 and 106 of the Bengal Tenancy Act, 1885 (8 of 1885), as originally passed, see the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), ss. 8, 9, in Vol. III of this Code.

⁴ Every Deputy Collector making a partition under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), has, as regards the estate under partition, all the powers exercisable by a Revenue-officer employed in preparing a record-of-rights under Chapter X of the present Act, see s. 44 of the former Act, in Vol. III of this Code.

of 1885.]

(Chapter X.—Record-of-rights and Settlement of Rents.—Part
I.—Record-of-rights.—Sec. 101.)

(2) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely :—

¹[(a) where—

- (i) the landlord or tenants, or
- (ii) a proportion of not less than one-half of the total number of landlords, or
- (iii) a landlord, or a proportion of the landlords, whose interest, or the aggregate of whose interests, respectively, in the lands of the local area, estate or tenure or part thereof is not less than one-half of the total shares of all the landlords therein, or
- (iv) a proportion of not less than one-fourth of the total number of tenants,

applies, or apply, for such an order, depositing, or giving security for, such amount for the payment of expenses as the Local Government² directs ;]

- (b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally ;
- (c) where the local area, estate or tenure or the part thereof belongs to, or is managed by, the Government or the Court of Wards³ [or a manager appointed by the District Judge under section 95 ;]
- (d) where a settlement of land-revenue is being or is about to be made in respect of the local area, estate or tenure or of the part thereof.

Explanation 1.—The term “settlement of land-revenue,” as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.

Explanation 2.—A superior landlord may apply for an order under this section, notwithstanding that his estate or part thereof is temporarily leased to a tenure-holder.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(4) The survey shall be made and the record-of-rights prepared in accordance with rules made in this behalf by the Local Government.

¹ This clause (a) was substituted for the original clause (a), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s. 19 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 18 (1) in Vol. III of this Code. The original clause ran thus :—

“where the landlord or tenants, or a large proportion of the landlords or of the tenants, apply for such an order, and deposit, or give security for, such amount for the payment of expenses as the Local Government directs.”

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, *post*, pp. 774 and 776.

³ The words “or a manager appointed by the District Judge under section 95” in clause (c), were added, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s. 19 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 18 (2), in Vol. II of this Code.

Chapter X.—Record-of-rights and Settlement of Rents.—Part I.—Record-of-rights.—Sec. 102.)

Particulars to be recorded.

102. Where an order is made under section 101, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely :—

- (a) the name of each tenant or occupant ;
- (b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, *raiyat* holding at fixed rates, settled *raiyat*, occupancy-*raiyat*, non-occupancy-*raiyat* or under-*raiyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure ;
- (c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupier ;
- (d) the name of each tenant's landlord ;
- ¹[(dd) the name of each proprietor in the local area or estate ;]
- (e) the rent payable at the time the record-of-rights is being prepared ;
- (f) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise ;
- (g) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases ;
- ²[(gg) the rights and obligations of each tenant and landlord in respect of—
- (i) the use by tenants of water for agricultural purposes, whether obtained from a river, *jhil*, tank or well, or any other source of supply, and
- (ii) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land ;]
- (h) the special conditions and incidents, if any, of the tenancy ;
- [(i) any right of way or other easement attaching to the land³ for which a record-of-rights is being prepared ;]

¹ Clause (dd) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907), s. 20 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 19 (1), in Vol. III of this Code

² Clause (gg) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 19 (2), in Vol. III of this Code, and is to be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), in Vol. III of this Code.

³ Clause (i) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 19 (3), in Vol. III of this Code.

of 1885.]

(Chapter X.—Record-of-rights and Settlement of Rents.—Part
I.—Record-of-rights.—Secs. 102A-103A.)

¹ (j) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and if so entitled, under what authority.

² **102A.** The Local Government³ may, for the purpose of settling or averting disputes existing or likely to arise between landlords, tenants, proprietors, or persons belonging to any of these classes, regarding the use or passage of water, make an order directing that a survey be made, and a record-of-rights be prepared, by a Revenue-officer, in order to ascertain and record the rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of—

Power to order survey and preparation of record-of-rights as to water.

(a) the use by tenants of water for agricultural purposes, whether obtained from a river, *jhil*, tank or well, or any other source of supply; and

(b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land.

103. On the application of one or more of the proprietors or tenure-holders, or of a large proportion of the *raiyats*, of an estate or tenure, and on the applicant or applicants depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with, rules made in this behalf by the Local Government, ascertain and record all or any of the particulars specified in section 102 with respect to the estate or tenure or any part thereof.

Power for Revenue-officer to record particulars on application of proprietor, tenure-holder or large proportion of *raiyats*.

103A. (1) When a draft record-of-rights has been prepared, the Revenue-officer shall publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.

Preliminary publication, amendment and final publication of record-of-rights.

(2) When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, and (if a settlement of land-revenue is being or is about to be made) the Settlement Rent-roll has been incorporated with the record under section 104F, sub-section (3), the Revenue-officer shall finally frame the record, and shall cause it to be

¹ This clause was formerly lettered (i), and was re-lettered (j), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 19 (3), in Vol. III of this Code.

² Section 102A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 21, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 20, in Vol. III of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. Dyitems 1 and 2, *post*, pp. 774 and 776.

(Chapter X.—Record-of-rights and Settlement of rents.—Part
I.—Record-of-rights—Sec. 103B.)

finally published in the prescribed manner; and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof.

Presumption
as to final
publication
and
correctness
of record-
of-rights.

¹ 103B. (1) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied;

and a certificate, signed by the Revenue-officer, or by the Collector of any district in which the local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(2) The Local Government may, by notification,⁴ declare,

² 103B. (1) When a record-of-rights has been finally published under section 103A, the Revenue-officer shall, within such time as the Board of Revenue³ may, by general or special order, prescribe, make a certificate stating the fact of such final publication and the date thereof, and shall date and subscribe the same with his name and official title.

(2) The certificate of final publication, or, in the absence of such certificate, a certificate signed by the Collector of any district in which the local area, estate, tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and of the date thereof.

(3) The Local Government⁵ may, by notification, declare,

Certificate of
and presumption
as to,
final publication,
and presumption
as to
correctness,
of record-of-
rights

¹ This section 103B applies to Western Bengal. It was substituted for the former section 103B, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s. 22, in Vol III of this Code.

² This section 103B applies to Eastern Bengal. It was substituted for the former section 103B by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908) s. 21, in Vol. III of this Code.

The differences in section 103B, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

The former section 103B ran thus:—

"103B. A certificate signed by the Revenue-officer, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication; and every entry in a record-of-rights so published shall be presumed to be correct until the contrary is proved."

³ Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 3, *post*, pp. 774 and 776.

⁴ For a list of notifications issued under section 103B (2) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 2, *post*, pp. 774 and 776.

of 1885.]

(Chapter X.—Record-of-rights and Settlement of Rents.—
Part II.—Settlement of Rents, preparation of Settlement
Rent-roll, and disposal of objections, in cases where a
settlement of land-revenue is being or is about to be made.
—Sec. 104.)

with regard to any specified area, that a record-of-rights has been finally published for every village included in such area; and such notification shall be conclusive evidence of such publication.

with regard to any specified area, that a record-of-rights has been finally published for every village included in such area; and such notification shall be conclusive proof of such publication.

(4) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect.

(5) Every entry in a record-of-rights finally published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect.

Part II.—Settlement of Rents, preparation of Settlement
Rent-roll, and ¹[disposal of objections], in cases where
a settlement of land-revenue is being or is about to
be made.

104. In every case in which a settlement of land-revenue is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-of-rights under section 103A, sub-section (1),—

- (a) settle fair and equitable rents for tenants of every class,
- (b) notwithstanding anything contained in section 192, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of ²[clause (j)]

Settlement
of rents and
preparation of
Settlement
Rent-roll
when to be
undertaken
by Revenue-
officer.

¹ The words "disposal of objections," in this heading, were substituted for the words "decision of disputes," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 23, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 22, in Vol. III of this Code.

² This reference "(clause j)" was substituted for the reference "clause (i)" for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 23 (1), in Vol. III of this Code.

(Chapter X.—*Record-of-rights and Settlement of Rents.*—
Part II.—Settlement of Rents, preparation of Settlement Rent-roll, and disposal of objections, in cases where a settlement of land-revenue is being or is about to be made.—Sec. 104A.)

of section 102, that the occupant is not entitled to hold it without payment of rent, and

(c) prepare a Settlement Rent-roll:

¹[Provided that the Revenue-officer shall not settle the rents of tenants of every class in an estate or tenure belonging to the Government, if it does not appear to the Local Government² to be expedient that he should do so.]³

Procedure for
 settlement of
 rents and
 preparation of
 Settlement
 Rent-roll
 under this
 Part

104A. (1) For the purposes of settling rents under this Part and preparing a Settlement Rent-roll, the Revenue-officer may proceed in any one or more of the following ways or partly in one of those ways and partly in another, that is to say,—

- (a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue-officer shall satisfy himself that the rent so agreed upon is fair and equitable, and if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent;
- (b) the Revenue-officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by the tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent;
- (c) if the circumstances are, in the opinion of the Revenue-officer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure or village or part thereof, or for each class of land in any local area, estate, tenure or village or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and *raiyats* and under-*raiyats* of each class, he may frame a Table of Rates and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described;
- (d) the Revenue-officer may settle all or any of the rents by maintaining the existing rentals recorded in the record-of-rights as published under section 103A,

¹ This proviso was added to section 104, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 23 (2), in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, *post*, pp. 774 and 776.

³ For an order made under the proviso to s. 104, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1885.]

(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent-roll, and disposal of objections, in cases where a settlement of land-revenue is being or is about to be made.—Sec. 104B.)

sub-section (1), or by enhancing or reducing such rentals:

Provided that, in making any such settlement, regard shall be had to the principles laid down in sections 6 to 9 (both inclusive), 27 to 36 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180 and 191.

(2) The Settlement Rent-roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each such tenant's rent payable for the area shown against his name.

104B. (1) If a Table of Rates is prepared, it shall specify—

Contents of
Table of
Rates.

(a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation, and other like considerations, it is in the opinion of the Revenue-officer necessary or practicable to fix a rate or different rates of rent; and

(b) the rate or rates of rent fairly and equitably payable by tenants holding land of each such class whose rent is liable to alteration.

(2) When the Revenue-officer has prepared the Table of Rates, he shall publish it in the local area, estate, tenure or village to which it relates, in the vernacular language prevailing in the district, and in the prescribed manner.

Local
publication
of Table.

(3) Any person objecting to any entry in the Table of Rates may present a petition to the Revenue-officer within a period of one month after such publication, and the Revenue-officer shall consider any such objection and may alter or amend the Table.

Revenue-
officer to
deal with
objections.

(4) If no objection is made within the said period of one month, or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the Revenue authority empowered by rule made by the Local Government to confirm the Tables and Rent-rolls prepared under this Part (hereinafter called the "confirming authority"), with a full statement of the grounds of his proposals, and shall forward any petitions of objection which he may have received.

Table to be
submitted to
superior
Revenue
authority.

(5) The confirming authority may confirm a Table submitted under sub-section (4), or may disallow the same, or may amend the same in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made, or may return the case for further inquiry.

Proceedings
of confirming
authority.

(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent-roll and disposal of objections, in cases where a settlement of land revenue is being or is about to be made.—Secs. 104C-104F.)

Effect of
Table.

(6) When a Table of Rates has been confirmed by the confirming authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the Table have been duly conducted in accordance with this Act; and it may be presumed that the rates shown in the Table for tenants of each class for each class of land, are the fair and equitable rates payable for land of that class within the area to which the Table applies.

Application
of Table of
Rates.

104C. When a Table of Rates has been confirmed under section 104B, sub-section (5), the Revenue-officer may settle all or any of the rents and prepare the Settlement Rent-roll on the basis of the rates shown in the Table by calculating the rental of each tenure or each holding of a *raiyat* or under-*raiyat* on the area of such tenure or holding at the said rates:

Provided that the Revenue-officer shall not be bound to apply the said rates in any particular case in which he may consider it unfair or inequitable to do so.

Rules and
principles to
be followed in
framing Table
of Rates and
settling rents
in accordance
there with.

104D. In framing a Table of Rates under section 104B, and in settling rents under section 104C, the Revenue-officer shall be guided by such rules as the Local Government may make in this behalf, and shall, so far as may be, and subject to the proviso to the said section 104C, have regard to the general principles of this Act regulating the enhancement or reduction of rents.

Preliminary
publication
and
amendment of
Settlement
Rent-roll.

104E. (1) When a Settlement Rent-roll for a local area, estate, tenure or village or part thereof has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry therein, or omission therefrom, during the period of publication and shall dispose of such objections according to such rules as the Local Government may prescribe.

(2) The Revenue-officer may, of his own motion or on the application of any party aggrieved, at any time before a Settlement Rent-roll is submitted to the confirming authority under section 104F, revise any rent entered therein:

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Final revision
of Settlement
Rent-roll,
and incorpor-
ation of the
same in the
record of
rights.

104F. (1) When all objections have been disposed of under section 104E, the Revenue-officer shall submit the Settlement Rent-roll to the confirming authority with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

of 1885.]

(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent-roll and disposal of objections, in cases where a settlement of land-revenue is being or is about to be made.—Secs. 104G, 104H.)

(2) The confirming authority may sanction the Settlement Rent-roll, with or without amendment, or may return it for revision :

Provided that no entry shall be amended, or omission supplied, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue-officer shall finally frame the Settlement Rent-roll and shall incorporate it with the record-of-rights published in draft under section 103A.

104G. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer prior to the final publication of the record-of-rights on any objection made under section 104B, sub-section (3), or section 104E; and such appeal shall lie to such superior Revenue authority as the Local Government may by rule prescribe.

Appeal to, or
revision by,
superior
Revenue
authority.

(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision¹ of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H :

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

104H. (1) Any person aggrieved by an entry of a rent settled in a Settlement Rent-roll prepared under sections 104A to 104F and incorporated in a record-of-rights finally published under section 103A, or by an omission to settle a rent for entry in such Settlement Rent-roll, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made.

Jurisdiction
of Civil Court
in matters
relating to
rent.

(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or, if an appeal has been presented to a Revenue authority under section 104G, then within six months from the date of the disposal of such appeal.

(3) Such suit may be instituted on any of the following grounds, and on no others, namely :—

(a) that the land is not liable to the payment of rent ;

¹ Every revision under section 104G (2) is subject to confirmation by the Governor-General in Council—see s 112 (3), *post*, p. 559.

(Chapter X.—Part II.—Settlement of Rents, preparation of Settlement Rent-roll and disposal of objections, in cases where a settlement of land-revenue is being or is about to be made.—Sec. 104H.)

- (b) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;
- (c) that the relation of landlord and tenant does not exist;
- (d) that land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- (e) that the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging;
- (f) that the Revenue-officer has not postponed the operation of the settled rent under the provisions of section 110, clause (a), or has wrongly fixed the date from which it is to take effect under that clause;

¹(g) that the special conditions and incidents of the tenancy, ⁴[or any right of way or other easement attaching to the land *which is the subject of the tenancy*, have not, or has not, been recorded, or have or has] been wrongly recorded.

²(g) that the special conditions and incidents of the tenancy have not been recorded, or have been wrongly recorded;

³[(h) that any right of way or other easement attaching to the land has not been recorded, or has been wrongly recorded].

The Secretary of State for India in Council shall not be made a defendant in any such suit unless the Government is landlord or tenant of the land to which the aforesaid entry relates or in respect of which the aforesaid omission was made.

(4) If it appears to the Court that the entry of rent settled is incorrect, it shall, in case (a) or case (c) mentioned in sub-section (3), declare that no rent is payable, and shall in any other case settle a fair rent;

and, in any case referred to in clause (f) or clause (g) of the said sub-section (3), the Court may declare the date from which the rent settled is to take effect, or pass such order relating to the entry as it may think fit.

¹ This clause (g) applies to Western Bengal.

² This clause (g) applies to Eastern Bengal.

³ Clause (h) applies only to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. A. Act 1 of 1908), s. 24, in Vol. III of this Code.

⁴ The differences in clauses (g) and (h), as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁵ These words in square brackets in this clause (g) were substituted for the words "have not been recorded, or have", for Western Bengal, by the Bengal Tenancy (Amendment) Act, s. 25, in Vol. III of this Code.

of 1885.]

(Chapter X—Part II.—Settlement of Rents, preparation of Settlement Rent-roll and disposal of objections, in cases where a settlement of land-revenue is being or is about to be made.—Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.—Secs. 104J, 105.)

(5) When the Court has declared under sub-section (4) that no rent is payable, the entry to the contrary effect in the record-of-rights shall be deemed to be cancelled.

(6) In settling a fair rent under sub-section (4) the Court shall be guided by the rents of the other tenures or holdings of the same class comprised in the same Settlement Rent-roll, as settled under sections 104A to 104F.

(7) Any rent settled by the Court under sub-section (4) shall be deemed to have been duly settled in place of the rent entered in the Settlement Rent-roll.

(8) Save as provided in this section, no suit shall be brought in any Civil Court in respect of the settlement of any rent or the omission to settle any rent under sections 104A to 104F.

(9) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

104J. Subject to the provisions of section 104H, all rents settled under sections 104A to 104F and entered in a record-of-rights finally published under section 103A, or settled under section 104G, shall be deemed to have been correctly settled and to be fair and equitable rents within the meaning of this Act.

Presumptions as to rents settled under sections 104A to 104G.

Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.

105. (1) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, either the landlord or the tenant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent in respect of the land held by the tenant.

Settlement of rents by Revenue-officer in cases where a settlement of land-revenue is not being or is not about to be made.

Explanation.—A superior landlord may apply for a settlement of rent notwithstanding that his estate or tenure or part thereof has been temporarily leased.

(2) When, in any case in which a settlement of land-revenue is not being made or is not about to be made, the Revenue-officer has recorded, in pursuance of ¹[clause (j)] of section 102, that the occupant of any land claimed to be held rent-free is not

¹ This reference "clause (j)" was substituted for the reference "clause (i)", for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907) ss. 24 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 23 (1), in Vol. III of this Code.

(Chapter X.—Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.—Sec. 105A.)

entitled to hold it without payment of rent, and either the landlord or the occupant applies, within two months from the date of the certificate of the final publication of the record-of-rights under section 103A, sub-section (2), for a settlement of rent, the Revenue-officer shall settle a fair and equitable rent for the land.

(3) Every application under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in the Court-fees Act, 1870¹, bear such stamp as the Government of India may, from time to time, prescribe by notification² in the Gazette of India. 7 of 1870

(4) In settling rents under this section, the Revenue-officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

(5) The Revenue-officer may in any case under this section propose to the parties such rents as he considers fair and equitable; and the rents so proposed, if accepted orally or in writing by the parties, may be recorded as the fair rents, and shall be deemed to have been duly settled under this Act.

(6) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the fair rent, the Revenue-officer shall satisfy himself that the amount agreed upon is fair and equitable, and, if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (4) and (5).

³[(7) Where the lands of the tenancy are included in different local areas for which separate records are framed, the period of limitation specified in sub-section (1) shall begin to run from the date of the certificate of final publication of the last record which contains entries relating to the tenancy.]

‘105A. Where, in any proceedings for the settlement of rents under this Part, any of the following issues arise :—

(a) whether the land is, or is not, liable to the payment of rent;

Decision of questions arising during the course of settlement of rents under this Part.

¹ Printed in the General Acts, 1868-78, Ed. 1909, p. 102.

² For a notification issued under section 105 (3), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ Sub-section (7) applies only to Eastern Bengal. It was added by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 26, in Vol. III of this Code.

⁴ Section 106A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 26, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 26, in Vol. III of this Code.

of 1885.]

(Chapter X.—Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.—Sec. 106.)

- (b) whether the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;
- (c) whether the relation of landlord and tenant exists;
- (d) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- (e) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging;
- (f) whether the special conditions and incidents of the tenancy, or any right of way or other easement attaching to the land, have not, or has not, been recorded, or have, or has, been wrongly recorded;

the Revenue-officer shall try and decide such issue and settle the rent under section 105 accordingly :

Provided that the Revenue-officer shall not try any issue under this section, which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, and has been tried and decided, or is already being tried, by a Revenue-officer in a suit instituted before him under section 106.

Institution
of suit before
a Revenue-
officer

¹ 106. In proceedings under this Part, a suit may be instituted before a Revenue-officer at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A of this Act, by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which the said officer has made from, the record,

whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and

106.² (1) In proceedings under this Part, a suit may be instituted before a Revenue-officer at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A of this Act, by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which the said officer has made from, the record,

whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and

Institution
of suit before
a Revenue-
officer.

¹ This section 106 applies to Western Bengal. It was substituted for the original section 106 by the Bengal Tenancy (Validation and Amendment) Act, 1908 (Ben. Act 1 of 1908), s. 4, in Vol. III of this Code.

² This section 106 (1) applies to Eastern Bengal. It was substituted for the original section 106 by the Bengal Tenancy (Validation and Amendment) Act, 1908 (Ben. Act 1 of 1908), s. 4, in Vol. III of this Code. It was re-numbered as 106 (1), for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 27 (1), in Vol. III of this Code.

(Chapter X.—Part III.—Settlement of Rents and decision of disputes in cases where a settlement of land revenue is not being or is not about to be made.—Sec. 106.)

tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter;

and the Revenue-officer shall hear and decide the dispute :

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial :

¹[Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A.]

tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter;

and the Revenue-officer shall hear and decide the dispute :

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial :

¹[Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A.]

² (2) Where the lands to which the dispute relates are situated in local areas for which separate records are framed, the period of limitation specified in sub-section (1) shall begin to run from the date of the certificate of final publication of the last record which contains entries relating to such lands.

¹ This proviso was added to section 106, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 27, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 27 (2), in Vol. III of this Code.

² Sub-section (2) applies only to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 27 (3), in Vol. III of this Code.

The only difference in section 106, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the addition of sub-section (2) for Eastern Bengal.

of 1885.]

(Chapter X.—Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.—Secs. 107-108 A.)

11 of 1882

107. (1) ¹[In all proceedings under section 105, section 105A and section 106,] the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure² for the trial of suits; and his decision in every such proceeding shall have the force and effect of a decree of a Civil Court in a suit between the parties, and, subject to the provisions of sections 108 and 109A, shall be final.

Procedure to be adopted by Revenue-officer.

³[(2) A note of all rents settled under section 105, and of all decisions of issues or disputes under section 105 A or section 106, and of all rents commuted under section 10 by a Revenue-officer appointed by the designation of 'Settlement Officer or Assistant Settlement Officer, shall be made in the record-of-rights finally published under sub-section (2) of section 103A; and such note shall be considered as part of the record.]

108. Any Revenue-officer especially⁴ empowered by the Local Government in this behalf, may, on application or of his own motion, within twelve months from the making of any order or decision under section 105, ⁵[section 105A,] section 106 or section 107, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed or decree made under section 109 A:

Revision by Revenue-officer.

Provided that no such order or decision shall be so revised if an appeal from it is pending under section 109 A or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

⁷**108A.** Any Revenue-officer specially empowered by the Local Government⁸ in this behalf may, on application or of his own motion, within twelve months from the date of the

Correction by Revenue-officer of mistakes in record-of-rights

¹ These words and figures in square brackets in section 107 (1) were substituted for the words and figures "In all proceedings for the settlement of rents under this Part, and in all proceedings under section 106," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 28 (a), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 28 (a), in Vol. III of this Code.

² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ This sub-section (2) was substituted for the original sub-section (2), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 28 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 28 (b), in Vol. III of this Code. The original sub-section ran thus:—

"(2) A note of all rents settled and of all decisions of disputes by the Revenue-officer under section 105 or section 106 shall be made by him in the record-of-rights finally published under section 103 A, sub-section (2); and such note shall be considered as part of the record."

⁴ In section 28 (b) of E. B. & A. Act 1 of 1908, the word "a" occurs here, but appears to be a misprint.

⁵ *Sic.* Read specially.

⁶ These words in square brackets in section 108 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 29, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 29, in Vol. III of this Code.

⁷ Section 108 A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 30, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 30, in Vol. III of this Code.

⁸ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, *post*, pp. 774 and 776.

(Chapter X.—Part III.—Settlement of Rents and decision of disputes, in cases where a settlement of land-revenue is not being or is not about to be made.—Secs. 109, 109A.)

certificate of the final publication of the record-of-rights under sub-section (2) of section 103 A, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bonâ fide* mistake :

Provided that no such correction shall be made if an appeal affecting such entry is pending under section 109 A, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Bar to
jurisdiction
of Civil
Courts.

109. Subject to the provisions of section 109A, a Civil Court shall not entertain any application or suit concerning any matter which is or has already been the subject of an application made, ¹[suit instituted or proceedings taken under sections 105 to 108 (both inclusive).]

Appeals from
decisions of
Revenue-
officers.

109A. (1) The Local Government shall appoint² one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under sections 105 to 108 (both inclusive).

(2) An appeal shall lie to the Special Judge from the decisions of a Revenue-officer under sections 105 to 108 A ³ (both inclusive), and the provisions of the Code of Civil Procedure⁴ 14 of 1882 relating to appeals shall, as nearly as may be, apply to all such appeals.

(3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure,⁵ an appeal shall lie to the High Court from the decision of a Special Judge in any case under this section (not being a decision settling a rent) as if he were a Court subordinate to the High Court within the meaning of the first section of that Chapter : 14 of 1882

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained under section 102 or settled under section 105 or section 108.

¹ The words and figures in square brackets in section 109 were substituted for the words "or suit instituted under section 105, section 106, section 107 or section 108," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s. 31, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E B & A Act 1 of 1908), s. 31, in Vol. III of this Code.

² For a list of orders issued under section 109 A (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt IV

³ This letter "A" was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 32, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 32, in Vol. III of this Code.

⁴ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁵ This reference should now be taken to be made to sections 100 to 103 and 108 of, and Order XLII in Schedule I to, the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in

of 1885.]

(Chapter X.—Part IV.—Supplemental Provisions.—
Sec. 109B.)

Part IV.—Supplemental Provisions.

Power of
Revenue-
officer
to give
effect to
agreement or
compromise

¹ 109B. (1) In framing a record-of-rights, and in deciding disputes, under this Chapter, the Revenue-officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant;

but he shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(2) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Revenue-officer shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(3) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Revenue-officer shall not give effect to such agreement or compromise unless and until he is satisfied by evidence that the statements made by

² 109B. In all proceedings under this Chapter, the Revenue-officer may presume that an agreement or compromise made or entered into by any landlord and his tenant is lawful;

Power of
Revenue-
officer
to presume
that
agreements or
compromises
are lawful

but, when the terms of the agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, he shall not give effect to such agreement or compromise until he has given reasonable notice to such third parties to appear, and be heard in the matter and

¹ These sections 109B to 109D, apply to Western Bengal. They were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 33, in Vol. III of this Code.

² These sections 109B and 109C apply to Eastern Bengal. They were inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act 1906 (E. B. & A. Act 1 of 1906), s. 33, in Vol. III of this Code.

The differences in ss. 109B to 109D, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

(Chapter X.—Part IV.—Supplemental Provisions.—
Sec. 109C.)

the parties thereto are unless and until he is satisfied that the statements made by the parties to the agreement or compromise are correct.

Illustration.—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-raiyat: this affects the rights of the tenants of B. The Revenue-officer must, under sub-section (3), inquire whether B is a tenure-holder or a raiyat, as defined in section 5. If he finds on the evidence that B is a raiyat, he may give effect to the agreement, but shall not do so if he finds that B is a tenure-holder.

Power to
Revenue-
officer
to settle
rents on
agreement.

¹109C. (1) Notwithstanding anything contained in section 109 B, if, in any case while the record is being prepared, the landlord and tenant agree as to the rent which shall be recorded as payable for the tenure or holding,

a Revenue-officer specially empowered in this behalf by the Local Government may, if he is satisfied that the rent agreed upon is fair and equitable, but not otherwise, settle such rent as a fair and equitable rent, although the terms of the agreement are such that, if they were embodied in a contract, they could not be enforced under this Act;

and the provisions of section 113 shall apply to a rent so settled.

(2) A landlord or tenant may appeal to the Special Judge appointed under section 109A, on the ground that the rent settled by the Revenue-officer, under sub-section (1), as a fair and equitable rent, was not

¹ This section 109C is new, and applies only to Western Bengal—see foot-note ¹ on last page.

of 1885.]

*(Chapter X.—Part IV.—Supplemental Provisions.—
Secs. 109D, 110.)*

agreed to by such landlord or tenant, and on no other ground.

(3) The Board of Revenue may, on application made, or of its own motion in proceedings undertaken, within one year from the date of the order, under sub-section (1), settling a rent as a fair and equitable rent, direct the revision of the rent so settled:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Note of
decisions on
record

¹ **109D.** A note of all rents settled, and of all decisions of disputes, on revision or appeal, under section 108, section 109A, or sub-section (2) or sub-section (3) of section 109C, shall be made in the record-of-rights finally published under sub-section (2) of section 103A; and such note shall be considered as part of the record.

² **109C.** A note of all rents settled, and of all decisions of disputes, on revision or appeal, under section 108 and section 109A, shall be made in the record-of-rights finally published under sub-section (2) of section 103A; and such note shall be considered as part of the record.

Note of
decisions on
record.

Date from
which settled
rent takes
effect

110. When a rent is settled by a Revenue-officer under this Chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision fixing the rent or (if a settlement of land-revenue is being or is about to be made) the date of final publication of the Settlement Rent-roll:

Provided as follows:—

- (a) if the land is comprised in an area, estate or tenure in respect of which a settlement of land-revenue is being or is about to be made, the rent settled shall, subject to the provisions of sections 191 and 192, take effect from the expiration of the period of the current settlement, or from such other date after the expiration of that period as may be fixed by the Revenue-officer;

¹ This section 109D is new, and applies only to Western Bengal—see foot-note ¹ on page 553, ante.
² This section 109C is new, and applies only to Eastern Bengal—see foot-note ² on page 553, ante.

(Chapter X.—Part IV.—Supplemental Provisions.—
Secs. 111-111 B.)

- (b) if the land is not comprised in an area, estate or tenure as aforesaid, and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.

Stay of proceedings in Civil Court during preparation of record-of-rights.

111. When an order has been made under section 101 directing the preparation of a record-of-rights, then, subject to the provisions of section 104H, a Civil Court shall not,—

- (a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and
(b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain [any application made under section 158, or] any suit or application for the alteration of the rent or the determination of the status of any tenant, in the area to which the record-of-rights applies.

Limitation of Jurisdiction of Civil Courts in matters, other than rent, relating to record-of-rights.

111A. No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 104H, for the alteration of any entry in such a record of a rent settled under sections 104A to 104F :

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession, may institute a suit for declaration of his right under Chapter VI² of the Specific Relief Act, 1877.

Stay of suits in which certain issues arise

111B. (1) Where a record-of-rights has been prepared and finally published in respect of the land in an area in which a settlement of land-revenue is not being made, or is

111B. (1) Where a record-of-rights has been prepared and finally published in respect of the land in any area in which a settlement of land-revenue is not being made, or is

1 of 1877.

Stay of suits in which certain issues arise

¹ These words in square brackets, in section 111, were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 34, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 34, in Vol. III of this Code.

² Printed in General Acts, 1868-78, Ed. 1909, p. 549.

³ This section 111 B applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 35, in Vol. III of this Code.

⁴ This section 111B applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 35, in Vol. III of this Code.

The only differences in section 111B, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics on the next page.

of 1885.]

(Chapter X.—Part IV.—Supplemental Provisions.—
Sec. 111B.)

not about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely:—

- (a) whether the land is or is not liable to the payment of rent;
- (b) whether the relation of landlord and tenant exists;
- (c) whether the land is part of a particular estate or tenancy; or
- (d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land.

(2) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue-officer shall not *entertain any suit under section 106 involving the decision of the same issue.*

(3) Where, in the course of settling fair rents under section 105, the Revenue-officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before the final publication of

not about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely:—

- (a) whether the land is or is not liable to the payment of rent;
- (b) whether the relation of landlord and tenant exists;
- (c) whether the land is part of a particular estate or tenancy; or
- (d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land.

(2) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue-officer shall not, *in a suit under section 106 or in proceedings under section 105A, try such issue unless in such civil suit such issue is not in fact tried or decided.*

(3) Where, in the course of settling fair rents under section 105, the Revenue-officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before the final publication of

(Chapter X.—Part IV.—Supplemental Provisions.—
Sec. 112.)

the record-of-rights, or before a Revenue-officer under section 106, is unable to settle a fair rent until such issue is decided, the Revenue-officer shall stay the proceedings, for the settlement of a fair rent, pending a final decision on the issue;

and, after the issue has been finally decided, he shall settle a fair rent, as if the record-of-rights had been framed in accordance with such decision.

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

the record-of-rights, or before a Revenue-officer under section 106, is unable to settle a fair rent until such issue is decided, the Revenue-officer shall stay the proceedings, for the settlement of a fair rent, pending a final decision on the issue,

and, after the issue has been finally decided, he shall settle a fair rent, as if the record-of-rights had been framed in accordance with such decision.

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

Power to
authorize
special
settlement in
special cases.

112. (1) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare,

¹[or that any landlord is demanding rents *which have been illegally enhanced above those entered as payable in a record-of-rights prepared under this Chapter*, invest a Revenue-officer]

²[or that any landlord is demanding *or exacting rents in excess of the rents entered as payable in a record-of-rights prepared under this Chapter, or of the rents payable by reason of enhancements lawfully made after the final publication of such record*, invest a Revenue-officer]

with the following powers or either of them, namely:—

(a) power to settle all rents;

(b) power, when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

¹ This clause applies to Western Bengal. It was substituted for the words "invest a Revenue-officer acting under this Chapter" by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 38 (1), in Vol. III of this Code.

² This clause applies to Eastern Bengal. It was substituted for the words "invest a Revenue-officer acting under this Chapter" by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1906 (E. B. & A. Act 1 of 1906), s. 36 (1), in Vol. III of this Code.

³ The differences in the clause, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

of 1885.]

(Chapter X.—Part IV.—Supplemental Provisions.—
Secs. 113, 114.)

(2) The powers given under this section may be made exerciseable within a specified area either generally or with reference to specified cases or classes of cases.

¹[(2a) A settlement of rents under this section shall be made in the manner provided by sections 104 to 104J (both inclusive).]

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council; ²[and the revision, by direction of the Board of Revenue³ under sub-section (2) of section 104G, of a record-of-rights, or any portion of a record-of-rights, prepared under this section, shall be subject to a like confirmation by the Governor General in Council.]

113. (1) When the rent of a tenure or holding is settled under this Chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-*raiyat* having occupancy rights, for fifteen years, and, in the case of a non-occupancy holding or the holding of an under-*raiyat* not having occupancy rights, for five years; and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground specified in section 38, clause (a).

Period for which rent as settled are to remain unaltered.

(2) The said periods of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this Chapter.

114. (1) When the preparation of a record-of-rights has been directed or undertaken under this Chapter, in any case except where a settlement of land-revenue is being or is about to be made, the expenses incurred * * * in carrying out the provisions of this Chapter in any local area, estate, tenure or part thereof (including expenses that may be incurred ⁵[at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration] of boundary-marks and other survey marks erected for the purpose of carrying

Expenses of proceedings under Chapter.

¹ Sub-section (2a) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 36 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 36 (2), in Vol. III of this Code.

² These words in square brackets were added to section 112 (3), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 36 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 36 (3), in Vol. III of this Code.

³ Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 8, *post*, pp. 774 and 776.

⁴ The words "by the Government," in section 114 (1), were repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (a), and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 37 (a), and are omitted.

⁵ These words in square brackets in section 114 (1) were substituted for the words "from time to time in the maintenance," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 37 (b), in Vol. III of this Code.

(Chapter X.—Part IV.—Supplemental Provisions.—
Secs. 115, 115A.)

out the provisions of this Chapter), or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords, tenants and occupants of land in that local area, estate, tenure or part in such proportions ¹[and in such instalments (if any)] as the Local Government, having regard to all the circumstances, may determine.

²[(2) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary marks for a period not exceeding fifteen years, or such part of such amount as the Local Government³ may direct, may be recovered in advance in the same manner as if such expenses had been already incurred.]

⁴(3) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.⁵

⁶[(4) The cost of preparing copies of survey maps and records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.]

Explanation.—The word “tenure” in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

Presumption
as to fixity
of rent not to
apply where
record-of-
rights has
been prepared.

Demarcation
of village
boundaries.

115. When the particulars mentioned in section 102, clause (b), have been recorded under this Chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

115A. In the demarcation of village boundaries for the purpose of making a survey **115A.** In the demarcation of village boundaries for the purpose of making a survey

Demarcation
of village
boundaries

¹ The words “and in any such instalments (if any),” in section 114 (1), were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (c), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 37 (c), in Vol. III of this Code.

² This sub-section (2) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908) s. 37 (2), in Vol. III of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, *post*, pp. 774 and 776.

⁴ The original sub-section (2) was renumbered (3), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 37 (3), in Vol. III of this Code.

⁵ For an alternative method of recovering expenses, see the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), ss. 28 to 32 and 36 (c), in Vol. III of this Code.

⁶ This sub-section (4) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (4), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 37 (4), in Vol. III of this Code.

⁷ This section 115A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 38, in Vol. III of this Code.

⁸ This section 115A applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 38, in Vol. III of this Code.

The only differences in section 115A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

of 1885.]

(Chapter XI.—Non-Accrual of occupancy and non-occupancy rights, and Record of Proprietors' Private Lands.—Sec. 116.)

Ben Act 5
of 1876

and preparing a record-of-rights under this Chapter, a Revenue-officer shall, so far as is possible, and subject to the provisions of the Bengal Survey Act, 1875¹, preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, if any;

and, where village maps prepared at a *previous revenue survey* exist, he shall not, without the sanction of the Board of Revenue, adopt any other area as such unit.

Ben Act 6
of 1875.

and preparing a record-of-rights under this Chapter, a Revenue-officer shall, so far as is possible, and subject to the provisions of the Bengal Survey Act, 1875,¹ preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, or other survey, if any, adopted under clause (10) (b) of section 3 as defining villages;

and, where village maps prepared at *such revenue or other survey* exist, he shall not, without the sanction of the Board of Revenue², adopt any other area as such unit.

CHAPTER XI.

³[NON-ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY RIGHTS
AND] RECORD OF PROPRIETORS' PRIVATE LANDS.

1 of 1894.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to,

Saving as
to certain
lands.

⁴[lands acquired under the Land Acquisition Act, 1894⁵, for the Government or for any Local Authority or for a Railway Company, or lands belonging to the Government within a Cantonment, while such lands remained the property of the Government, or of any Local Authority or Railway Company, or to]

a proprietor's private lands known in Bengal as *khaimar*, *nij* or *nijjot*, [and in *Bihâr* as *zirâat*, *nij*, *sir* or *khamat*], where any such land is held under a lease for a term of years or under a lease from year to year.

¹ Printed in Vol. II of this Code

² Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912, (7 of 1912), s. 3, and Sch. D, item 3, *post*, pp. 774 and 776.

³ These words in square brackets were prefixed to this heading, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 39, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 39, in Vol. III of this Code.

⁴ These words in square brackets in section 116 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 40, and for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 40, in Vol. III of this Code.

⁵ Printed in the General Acts, 1887-97, Ed. 1909, p. 363.

(Chapter XI.—Non-accrual of occupancy and non-occupancy rights, and Record of Proprietors' Private Lands.—Secs. 117-120.)

Power for Government to order survey and record of proprietor's private lands.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Revenue-officer to record private land on application of proprietor or tenant

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to, and in accordance with, rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Procedure for recording private land.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of ¹[sections 103 A, 103 B, 106, 107, 108, 109 and 109A] shall apply.

Rules for determination of proprietor's private land.

120. (1) The Revenue-officer shall record as a proprietor's private land—

- (a) land which is proved to have been cultivated as *khamar*, [*zirāat*, *str.*] *nii*, *nijjot* [*or kamat*] by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and
- (b) cultivated land which is recognized by village usage as proprietor's *khamar*, [*zirāat*, *str.*] *nii*, *nijjot* [*or kamat*].

(2) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was, before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

²[(2a) Notwithstanding anything contained in any agreement or compromise, or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud, a Revenue-officer shall not record any land as a proprietor's private land, unless it is proved to be such by satisfactory evidence of the nature described in sub-section (1) or sub-section (2)].

(3) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

¹ These words and figures in square brackets in s. 119 were substituted for the words and figures "sections 104 to 109, both inclusive," by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 8 of 1898), s. 10, in Vol. III of this Code.

² Sub-section (2a) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 41, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 41, in Vol. III of this Code.

of 1885.]

(Chapter XII.—Distraint.—Secs. 121, 122.)

CHAPTER XII.

DISTRAINT.

121. Where an arrear of rent is due to the landlord of a *raiyat* or under-*raiyat*, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

Cases in which an application for distraint may be made.

- (a) any crops or other products of the earth standing or ungathered on the holding;
- (b) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead:

Provided that an application shall not be made under this section—

Ben Act 7 of 1876

- (1) by a proprietor or manager as defined under the Land Registration Act, 1876¹, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or
- (2) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or
- (3) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

122. (1) Every application under the last foregoing section shall specify—

Form of application.

- (a) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;
- (b) the name of the tenant;
- (c) the period in respect of which the arrear is claimed;
- (d) the amount of the arrear, with the interest, if any, claimed thereon and, when an amount in excess of the rent payable by the tenant in the last preceding

¹ The word "rent" in Ch. XII includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), ante, p. 498.

² Printed in Vol. II of this Code.

(Chapter XII.—Distrain.—Secs. 123-125.)

agricultural year is claimed, the contract or proceeding, as the case may be, under which that amount is payable;

- (e) the nature and approximate value of the produce to be distrained;
- (f) the place where it is to be found, or such other particulars as may suffice for its identification; and
- (g) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

Procedure on receipt of application.

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure¹ for the signing and verification of plaints. 14 of 1882

123. (1) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(3) Where a Court cannot forthwith admit or reject an application under sub-section (2), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distrain.

Execution of order for distrain.

124. If an application is admitted under the last foregoing section the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distrain in accordance with rules to that effect to be made by the High Court:

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

Service of demand and account.

125. (1) The distraining officer shall, at the time of making the distrain, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-08, Ed. 1909, p. 184.

of 1885.]

(Chapter XII.—Distrain.—Secs. 126-129.)

distrain, with an account exhibiting the grounds on which the distrain is made.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable, be served personally; but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

126. (1) A distrain under this Chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to reap, etc., produce.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

127. (1) Unless the demand, with all costs of the distrain, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained, and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distrain, sell the distrained property by public auction:

Sale proclamation to be issued unless demand is satisfied.

Provided that when the crops or products distrained from their nature admit of being stored, but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

Place of sale.

129. (1) Crops or products which from their nature admit of being stored shall, not be sold before they are reaped or gathered and are ready for storing.

When produce may be sold standing

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by

(Chapter XII.—Distrain.—Secs. 130-136.)

himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied

134. (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules¹ to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (1) If at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property, where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same, and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

¹ For rules made under section 184 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1885.]

(Chapter XII.—Distrain.—Secs. 137-141.)

(3) A receipt granted under this section to an owner of distrained property not being the defaulter, shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distrain was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distrain the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distrain and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

137. (1) When an inferior tenant, on his property being lawfully distrained under this Chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Amount paid by under-tenant for his lessor may be deducted from rent.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

138. When land is sub-let, and any conflict arises under this Chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Conflict between rights of superior and inferior landlords.

139. When any conflict arises between an order for distrain issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distrain, the order for distrain shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Distrain of property which is under attachment.

140. No appeal shall lie from any order passed by a Civil Court under this Chapter; but any person whose property is distrained on an application made under section 121, in any case in which such an application is not permitted by that section, may institute a suit against the applicant for the recovery of compensation.

Suit for compensation for wrongful distrain.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application

Power of Local Government to authorise distrain.

*(Chapter XII.—Distraint. Chapter XIII.—Judicial
Procedure.—Secs. 142-144.)*

under this Chapter to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this Chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

Power for
High Court
to make rules.

142. The High Court may, from time to time, make rules,¹ consistent with this Act, for regulating the procedure in all cases under this Chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to
modify Civil
Procedure
Code in its
application to
landlord and
tenant suits.

143. (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules,² consistent with this Act, declaring that any portions of the Code of Civil Procedure³ shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

14 of 1882

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure⁴ shall apply to all such suits.

14 of 1882

Jurisdiction
in proceed-
ings under
Act.

144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure⁵, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

14 of 1882

¹ For rules made under section 142, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² As to the application of ss. 148 to 158, see also s. 188A, *post*, p. 595.

³ For rules made under section 148, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

⁴ Act 44 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

of 1885.]

(Chapter XII.—Judicial Procedure.—Sers. 145-147A.)

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

11 of 1882

145. Every *naib* or *gumashta* of a landlord empowered in this behalf by a written authority under the hand of the landlord, shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure,¹ notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Naibs or gumashtas to be recognized agents.

11 of 1882

146. The particulars referred to in section 58 of the Code of Civil Procedure² shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form³ as the Local Government may, from time to time, prescribe in this behalf.

Special register of suits.

14 of 1882

147. Subject to the provisions of section 373 of the Code of Civil Procedure,⁴ where a landlord has instituted a suit against a *raiyat* for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

Successive rent-suits.

Compromise of suits between landlord and tenant
11 of 1882

⁵ **147A.** (1) *The provisions of section 375 of the Code of Civil Procedure⁷ shall not apply to any suit between landlord and tenant as such.*

⁶ **147A.** *Notwithstanding anything contained in section 373 of the Code of Civil Procedure,⁴*

Compromise of suits between landlord and tenant.
14 of 1882.

(2) If any suit between landlord and tenant as such is if any suit between landlord and tenant as such is

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

² This reference should now be taken to be made to rule 2 in Order IV and rule 1 in Order VII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ For an order made under section 146 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

⁴ This reference should now be taken to be made to rule 1 in Order XXIII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁵ This section 147A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 42, in Vol. III of this Code.

⁶ This section 147A applies to Eastern Bengal. It was inserted, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 42, in Vol. III of this Code.

The differences in section 147A, as in force in Western Bengal and in Eastern Bengal respectively, lie in the words printed in italics.

⁷ This reference should now be taken to be made to rule 3 in Order XXIII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Chapter XIII.—Judicial Procedure.—Sec. 147A.)

adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfies the plaintiff in respect to the whole or any part of the matter of the suit, the Court shall pass a decree in accordance with such agreement, compromise or satisfaction, so far as it relates to the suit:

wholly or partly adjusted by agreement or compromise, the Court shall not pass a decree in accordance with such agreement or compromise unless it is satisfied, for reasons to be recorded in writing, that the terms of such agreement or compromise are such that, if embodied in a contract, they could be enforced under this Act:

Provided that no decree shall be passed in accordance with any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(3) *Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Court shall,*

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

Provided that, in the case of a suit instituted by the landlord to enhance the rent, the enhancement, if any, agreed upon may be decreed if the Court be satisfied, for reasons to be recorded in writing, that such enhancement is fair and equitable and in accordance with the rules laid down in this Act for the guidance of Courts in increasing rents.

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(4) *Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Court shall not pass a decree in accordance with such agreement or compromise, unless and until it is satisfied by evidence that the*

of 1885.]

(Chapter XIII.—Judicial Procedure.—Secs. 147B, 148.)

statements made by the parties thereto are correct.

Illustration.—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-raiyat : this affects the rights of the tenants of B. The Court must, under sub-section (4), inquire whether B is a tenure-holder or a raiyat as defined in section 5. If the Court finds on the evidence that B is a raiyat, it may pass a decree in accordance with the agreement, but shall not do so if it finds that B is a tenure-holder.

(5) A decree passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of the subject-matter of the suit as is dealt with by such agreement, compromise or satisfaction.

147B. In all areas for which a record-of-rights has been prepared and finally published under sub-section (2) of section 103A, a Civil Court shall, in all suits between landlord and tenant as such, have regard to the entries in such record-of-rights relating to the subject-matter in dispute which may be produced before it, unless such entries have been proved by evidence to be incorrect; and, when a Civil Court passes a decree at variance with such entries, it shall record its reasons for so doing.

Regard to be had by Civil Courts to entries in record-of-rights.

148. The following rules shall apply to suits for the recovery of rent:—

Procedure in rent-suits.

(a) sections 121 to 127 (both inclusive), 129, 305 and 320 to 326 (both inclusive) of the Code of Civil Procedure² shall not apply to any such suit:

(b) the plaint shall contain, in addition³ to the particulars specified in section 50 of the Code of Civil Procedure,³ a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the

14 of 1882

11 of 1882

¹ Section 147B was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907), s. 42, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 42, in Vol. III of this Code.

² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to sections 68, 70, 71 and 72 of, and to rules 1 to 13 in Order XI, rule 83 in Order XXI, and rule 2 in Order XLVIII, in Schedule I, and to Schedule III, to that Code—see s. 158 thereof, in General Acts, 1904-08, Ed. 1909, p. 184.

³ This reference should now be taken to be made to rules 1 to 8 in Order VII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-08, Ed. 1909, p. 184.

(Chapter XIII.—Judicial Procedure.—Sec. 148.)

extent or boundaries, in lieu thereof a description sufficient for identification :

¹(b1) where the suit is for the rent of land situated within an area for which a record-of-rights has been *prepared and* finally published, the plaintiff shall *further* contain *a list of the survey plots comprised in the tenancy and a statement of the rental of the tenancy according to the record-of-rights*, unless the Court is satisfied, for reasons to be recorded in writing, that the plaintiff was prevented by any sufficient cause from furnishing such *list or statement* :

Provided that, in all cases in which the Court admits a plaint which does not contain such statement, the Court shall, and in any other case in which it sees fit the Court may, require the Collector to supply, without payment of fee, a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy :

²(b1) where the suit is for the rent of land situated within an area for which a record-of-rights has been finally published, the plaintiff shall contain *a statement of the serial number or numbers borne by the tenancy in the record-of-rights, and of the area and rental of the tenancy according to such record*, unless the Court is satisfied, for reasons to be recorded in writing, that the plaintiff was prevented by any sufficient cause from furnishing such statement :

Provided that, in all cases in which the Court admits a plaint which does not contain such statement, the Court shall, and in any other case in which it sees fit the Court may, require the Collector to supply, without payment of fee, a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy :

Provided also that such statement, when contained in the plaint, shall be deemed to be a description of the land sufficient for identification within the meaning of clause (b).

¹ This clause (b1) applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 48 (1), in Vol. III of this Code.

² This clause (b1) applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 48 (1), in Vol. III of this Code.

The differences in clause (b1), as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

of 1885.]

(Chapter XIII.—Judicial Procedure.—Sec. 148.)

¹ (b2) where an alteration has been made in the area of the tenancy since the record-of-rights was prepared and finally published, the plaint shall further contain a statement of the rental of the original tenancy according to the record-of-rights, together with a statement showing how the amount of rent claimed in the suit has been computed :

(c) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only :

(d) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866 :

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served :

(e) a written statement shall not be filed without the leave of the Court :

(f) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure³ shall apply, whether an appeal is allowed or not :

[(f)] when any account books, rent-rolls, collection-papers, measurement-papers or maps have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein.

⁵[(f)] when any account-books, rent-rolls, collection-papers, measurement-papers, maps or extracts from records-of-rights have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein,

¹ Clause (b 2) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 43 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 43 (f) in Vol. III of this Code.

² Act 11 of 1866 has been repealed and re-enacted by the Indian Post Office Act, 1898 (8 of 1898), and this reference should now be construed as a reference to Chapter VI of the latter Act (in General Acts, 1898-09, Ed. 1909, p. 351)—see the General Clauses Act, 1897 (10 of 1897), s. 8 (in *ibid*, 1887-97, Ed. 1909, p. 579).

³ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 18 in Order XVIII in Schedule I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴ This clause (f) applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 43 (2), in Vol. III of this Code.

⁵ This clause (f) applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 43 (2), in Vol. III of this Code.

The differences in clause (f), as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

(Chapter XIII.—Judicial Procedure.—Sec. 148 A.)

copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals, which may then be returned to the landlord; and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals :

copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals, which may then be returned to the landlord; and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals :

- (g) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears :
- (h) notwithstanding anything contained in section 232 of the Code of Civil Procedure,¹ an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

11 of 1882

Suits for
arrears of rent
by co-sharer
landlords.

148A. Where a co-sharer landlord who has instituted a suit to recover the rent due to all the co-sharer landlords in respect of an entire tenure or holding, and has made all the remaining co-sharers parties defendant to the suit, is unable to ascertain what rent is due

148A. Where a co-sharer landlord who *is entitled to sue for his share of the rent separately* and has instituted a suit to recover the rent due to all the co-sharer landlords in respect of an entire tenure or holding, and has made all the remaining co-sharer parties

Suits for
arrears of rent
by co-sharer
landlords

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 16 in Order XXI in Schedule I to that Code—see s. 158 thereof, in General Acts, 1901-09, Ed. 1909, p. 181.

² This section 148A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 44, in Vol. III of this Code.

³ This section 148A applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 44, in Vol. III of this Code.

The only difference in section 148A, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

As to the application of Chapter XIV to decrees in suits framed under section 148A in Eastern Bengal, see section 188A, *post*, p. 595.

of 1885.]

(Chapter XIII.—Judicial Procedure—Secs. 149, 150.)

for the whole tenure or holding, or whether the rent is due to the other co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant, or of the co-sharer landlords defendant to the suit, to furnish him with correct information on these points, or on either of them.

such plaintiff co-sharer landlord shall be entitled to proceed with the suit for his share only of the rent;

and a decree obtained by him in a suit so framed shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

149. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff, but to a third person, the Court shall¹

Payment into Court of money admitted to be due to third person

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall²

Payment into Court of money admitted to be due to landlord.

¹ The words "except for special reasons to be recorded in writing," in section 149 (1), were repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Bep. Act 1 of 1907), s. 46, and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 46, and are omitted.

² The words "except for special reasons to be recorded in writing," in section 150, were repealed, in Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 46, and, in Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 46, and are omitted.

(Chapter XIII.—Judicial Procedure.—Secs. 151-153.)

refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Provisions as to payment of portion of money

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Court to grant receipt

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Appeals in rent suits

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

- (a) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or
- (b) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested or has acted in the exercise of his jurisdiction illegally or with material irregularity, and may pass such order as the District Judge thinks fit.

² [*Explanation.*—A question as to the regularity of the proceedings in publishing or conducting a sale in execution of a decree for arrears of rent is not a question relating to title to land or to some interest in land as between parties having conflicting claims thereto.]

¹ This *Explanation* was added to section 153, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 46, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 46, in Vol. III of this Code.

of 1885.]

(Chapter XIII.—Judicial Procedure.—Secs. 153A-155.)

1882

¹ 153A. Every application for an order under section 108 of the Code of Civil Procedure² to set aside a decree passed *ex parte*, or for a review of judgment, under section 623 of the said Code,³ in a suit between a landlord and tenant as such, shall contain a statement of the injury sustained by the applicant by reason of the decree or judgment;

Deposit on application to set aside *ex parte* decree.

and no such application shall be admitted—

- (a) unless the applicant has, at or before the time when the application is admitted, deposited in the Court to which the application is presented the amount, if any, which he admits to be due from him to the decree-holder, or such amount as the Court may, for reasons to be recorded by it in writing, direct; or
- (b) unless the Court, after considering the statement of injury, is satisfied, for reasons to be recorded by it in writing, that no such deposit is necessary.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year,⁴ shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Date from which decree for enhancement takes effect

155. (1) A suit for the ejectment of a tenant, on the ground—

Relief against forfeitures.

- (a) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or
- (b) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would

¹ Section 153A was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 47, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 47, in Vol. III of this Code.

² Act 11 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 6 of 1908), and this reference should now be taken to be made to rule 18 in Order IX in Sch. I to that Code—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ This reference should now be taken to be made to rule 1 in Order XLVII in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴ For definition of "agricultural year," see s. 3 (II), ante, p. 494.

(Chapter XVIII.—Judicial Procedure.—Secs. 156, 157.)

reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (2).

(4) if the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of
ejected *raiya*s
in respect of
crops and land
prepared for
sowing.

156. The following rules shall apply in the case of every *raiya* ejected from a holding :—

- (a) when the *raiya* has, before the date of his ejection, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejection;
- (b) when the *raiya* has, before the date of his ejection, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejection, together with reasonable interest on that value;
- (c) but a *raiya* shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejection, he has cultivated or prepared the land contrary to local usage; and
- (d) if the landlord elects under this section to allow a *raiya* to retain possession of the land, the *raiya* shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejection may deem reasonable.

Power for
Court to fix
fair rent as
alternative to
ejection.

157. When a plaintiff institutes a suit for the ejection of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

of 1885.]

(Chapter XIII A.—*Judicial Procedure.* Chapter XIII A.—*Summary Procedure for the Recovery of Rents under the Public Demands Recovery Act, 1895.*—Secs. 158, 158 A.)

158. (1) [Subject to the provisions of section 111.] the Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, namely:—

Application to determine incidents of tenancy.

- (a) the situation, quantity and boundaries of the land;
- (b) the name and description of the tenant thereof (if any);
- (c) the class to which he belongs, that is to say, whether he is a tenure-holder, *raiyyat* holding at fixed rates, occupancy-*raiyyat*, non-occupancy-*raiyyat*, or under-*raiyyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure; and
- (d) the rent payable by him at the time of the application.

(2) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure² by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392³ of the said Code.

11 of 1882

(3) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

CHAPTER XIII A.

SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE PUBLIC DEMANDS RECOVERY ACT, 1895.⁵

Ben. Act 1 of 1895

158A. (1) Any landlord whose land is situate in an area for which a record-of-rights has been prepared and finally published, and in which such record is maintained,

Recovery of arrears by the certificate procedure in certain areas.

may apply to the Local Government,⁶ through the Collector of the district in which his land is situate, for the application

¹ These words in square brackets in section 158 (1) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 48, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 48, in Vol. III of this Code.

² Act 11 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to section 78 of, and Order XXVI in Sch. I to, that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ This reference should now be taken to be made to rule 9 in Order XXVI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908),—see section 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴ Chapter XIII A (section 158 A) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 49, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 49, in Vol. III of this Code.

⁵ Printed in Vol. III of this Code.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, post, pp. 774 and 776.

(Chapter XIII.A.—Summary Procedure for the Recovery of Rents under the Public Demands Recovery Act, 1895.—Sec. 158A.)

of the procedure prescribed by the Public Demands Recovery Act, 1895,¹ to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area.

Ben Act 1 of 1895

(2) The Local Government² may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action.

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed, to such Revenue-officer as the Local Government² may appoint, for the purpose of this section, to perform the functions of a Certificate Officer under the Public Demands Recovery Act, 1895,¹ for the recovery of any arrears of rent which he alleges are due to him from any tenant.

Ben Act 1 of 1895

(4) Every such requisition shall be signed and verified by the landlord making it, in accordance with the provisions of sections 51 and 52 of the Code of Civil Procedure³ as to the verification of plaints; and there shall be payable in respect of every such requisition a court-fee of the same amount as is payable under the Court-fees Act⁴ for the time being in force in respect of a plaint for the recovery of a sum of money equal to that stated in such requisition.

14 of 1882

7 of 1870

(5) On receipt of such requisition, the Revenue-officer may, in accordance with such rules as the Local Government² may prescribe in this behalf, issue certificates in the form prescribed therefor, for the recovery of the arrears alleged to be due,

and any such certificate shall, as regards the remedies for enforcing the same, and so far only, have the force and effect of a decree of a Civil Court passed in a suit for the recovery of rent, and the provisions of Chapter XIV shall, so far as may be practicable, be applicable to all proceedings for the execution of such certificate:

Provided that—

- (a) no certificate shall be issued for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under

¹ Printed in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, *post*, pp. 774 and 776.

³ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rules 14 and 15 in Order VI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴ Printed in the General Acts, 1868-78, Ed. 1909, p. 102.

of 1885.]

(Chapter XIII.)—*Summary Procedure for the Recovery of Rents under the Public Demands Recovery Act, 1895.*
 Chapter XIV.—*Sale for Arrears under Decree.—Sec. 158B.*

sub-section (3) the arrears of rent sought to be recovered have accrued; and,

(b) if, after the issue of a certificate, it is found that such a suit has been instituted in a Civil Court before the issue of the certificate, such certificate, shall be cancelled.

Ben. Act 1 of 1895

(6) The following provisions of the Public Demands Recovery Act, 1895,¹ shall, so far as they are applicable, apply to the proceedings for the execution of all certificates for the recovery of arrears of rent issued under sub-section (5), namely:—

the proviso to sub-section (1) of section 7, and sections 10 to 17 (both inclusive), and 22 to 33 (both inclusive).

(7) No landlord shall, during the pendency of any proceedings under this section, institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3);

Ben. Act 1 of 1895

and, subject to the provisions of section 15 of the Public Demands Recovery Act, 1895,¹ no tenant shall, after the issue of any certificate against him under sub-section (3), institute a suit in, or apply to, a Civil Court for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was issued have accrued.

(8) The word "landlord" in this section includes an entire body of landlords, and also one or more co-sharer landlords who collects or collect his or their share or shares of the rent separately; and, where the Revenue-officer issues a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

³158B. (1) Where a tenure or holding is sold in execution of a decree for arrears of rent due in respect thereof, or of a decree for damages under section 186A, the tenure or holding shall, subject to the provisions of section 22, pass to the purchaser,

Passing of tenure or holding sold in execution of decree.

¹ Printed in Vol. III of this Code.

² The word "rent," in Ch. XIV, includes also money recoverable under any enactment for the time being in force as if it was rent—*sects. 3 (b), ante*, p. 193.

As to the extended application of Ch. XIV, see s. 158A (5), *ante*, p. 580, and s. 158A, *post*, p. 595.

³ Section 158B was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 50, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 50, in Vol. III of this Code.

*(Chapter XIV.—Sale for Arrears under Decree.—
Secs. 159, 160.)*

provided that the decree in execution of which it has been sold has been obtained by—

- (a) a sole landlord ; or
- (b) the entire body of landlords ; or
- (c) one or more co-sharer landlords, who has, or have, sued for the rent due to all the co-sharers in respect of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit.

(2) When one or more co-sharer landlords, having obtained a decree in a suit framed under sub-section (1) or under section 148A, applies, or apply, for the execution of the decree by the sale of the tenure or holding, the Court shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this Chapter as “protected interests,” but with power to annul the interests defined in this Chapter as “incumbrances”:

Provided as follows:—

- (a) a registered and notified incumbrance within the meaning of this Chapter shall not be so annulled except in the case hereinafter mentioned in that behalf ;
- (b) the power to annul shall be exercisable only in manner by this Chapter directed.

Protected interests.

160. The following shall be deemed to be protected interests within the meaning of this Chapter:—

- (a) any under-tenure existing from the time of the Permanent Settlement ;
- (b) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement ;
- (c) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made ;
- (d) any right of occupancy ;
- (e) the right of a non-occupancy-*raiayat* to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer ;
- (f) any right conferred on an occupancy-*raiayat* to hold at a rent which was a fair and reasonable rent at the time the right was conferred ; and

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*(Chapter XIV.—Sale for Arrears under Decree.—
Secs. 161-163.)*

- (g) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

161. For the purposes of this Chapter—

- (a) the term “incumbrance,” used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;
- (b) the term “registered and notified incumbrance,” used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument, of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided;
- [(c) the terms “arrears” and “arrear of rent” shall be deemed to include interest decreed under section 67 or damages awarded in lieu of interest under sub-section (I) of section 68].

Meaning of
“incum-
brance” and
“registered
and notified
incum-
brance.”

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure¹ for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the *pargana*, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree.

Application
for sale of
tenure or
holding.

163. (I) Notwithstanding anything contained in the Code of Civil Procedure,² when the decree-holder makes the application mentioned in the last foregoing section, the Court shall, if under section 245 of the said Code³ it admits the application and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code.⁴

Order of
attachment
and
proclamation
of sale to
be issued
simul-
taneously.

¹ Clause (c) was added to section 161, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 51, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 51, in Vol. III of this Code.

² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 11 (2) in Order XXI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ This reference should now be taken to be made to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴ This reference should now be taken to be made to rule 17 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁵ This reference should now be taken to be made to sections 129 and 131 of, and rules 66 and 70 in Order XXI in Sch. I to, the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts 1904-09, Ed. 1909, p. 184.

(Chapter XIV.—Sale for Arrears under Decree.—
Sec. 164.)

(2) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code¹ announce—

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- (a) in the case of a tenure or a holding of a *raiyat* holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given with power to annul all incumbrances; and
- (b) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(3) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code² be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct³ in this behalf.

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(4) Notwithstanding anything contained in section 290 of the said Code,⁴ the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

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Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (1) When tenure or holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to sections 129 and 131 of, and rules 66 and 70 in Order XXI in Sch. I to, that Code—see s. 158 thereof, in General Acts, 1904-09, Ed 1909, p. 184.

² This reference should now be taken to be made to rule 67 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed 1909, p. 184.

³ For an order made under section 163 (3), see the Bengal Local Statutory Rules and Orders, 1917, Vol. I, Pt. IV.

⁴ This reference should now be taken to be made to rule 68 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

of 1885.]

*(Chapter XIV.—Sale for Arrears under Decree.—
Secs. 165-167.)*

165. (1) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure,¹ announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

14 of 1882

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

166. (1) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

(2) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

167. (1) A purchaser having power to annul an incumbrance under any of the foregoing sections and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

Procedure for annulling incumbrances under the foregoing sections.

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(4) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (c), the purchaser may, if he has power under this Chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 67 in Order XXI in Section I of that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

*(Chapter XIV.—Sale for Arrears under Decree.—
Secs. 168, 169.)*

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

168. (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of ¹[a decree for an arrear of rent] due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this Chapter, be treated in all respects as if they were tenures.

Rules for disposal of the sale-proceeds.

169. (1) In disposing of the proceeds of a sale under this Chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure², shall be observed. 11 of 1882
that is to say :—

- (a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;
- (b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;
- (c) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of ³[the confirmation of] the sale;
- (d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application :

¹These words in square brackets in section 168 (1) were substituted for the words "decree for rent," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 52, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 52, in Vol. III of this Code.

²Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to section 73 of that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³These words in square brackets in section 169 (c) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 53 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 53 (1), in Vol. III of this Code.

of 1885.]

(Chapter XIV.—Sale for Arrears under Decree.—
Sec. 170.)

¹[Provided that, where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords in a suit framed under section 148 A or sub-section (I) of section 158 B,—

- (i) payment of the amount due under such decree shall, notwithstanding anything contained in clause (b), be made to the decree-holder and to the other co-sharer landlords in proportion to the amount found to be due to each, and,
- (ii) if there remains a balance, payment of any rent which may have fallen due in respect of the tenure or holding between the institution of the suit and the date of the confirmation of the sale shall, notwithstanding anything contained in clause (c), but subject to the determination, in the manner and with the effect mentioned in sub-section (2), of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and the other co-sharer landlords in proportion to their respective shares in the tenure or holding.]

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c), the Court shall determine the dispute, and the determination shall have the force of a decree.

Tenure or holding to be released from attachment only on payment into Court of amount of decree, with costs, or on confession of satisfaction by decreeholder
11 of 1882

²170. (I) Sections 278 to 283 (both inclusive) and 310 A⁴ of the Code of Civil Procedure⁵ shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before

³170. (I) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure⁶ shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before

Tenure or holding to be released from attachment only on payment into Court of amount of decree, with costs, or on confession of satisfaction by decree-holder.
14 of 1882.

¹ This proviso was added to section 169 (I), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 58 (2), in Vol. III of this Code.

² This section 170 applies to Western Bengal.

³ This section 170 applies to Eastern Bengal.

The differences in section 170, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the matter printed in italics.

⁴ This reference to section 310A, in section 170 (I), was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 54, in Vol. III of this Code.

⁵ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rules 58 to 63 and 89 in Order XXI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁶ This reference should now be taken to be made to rules 58 to 63 in Order XXI in Sch. I to that Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Chapter XIV.—Sale for arrears under Decree.—
Sec. 171.)

it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor, or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section.

it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor, or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section.

¹(4) *The withdrawal of the amount deposited under section 310A of the Code of Civil Procedure² by the decree-holder landlord shall not operate as an admission of the transferability of the tenure or holding sold in execution of the decree.*

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Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

171. (1) When any person having, in a tenure or holding advertised for sale under this Chapter, an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale—

- (a) the amount so paid by him shall be deemed to be a debt bearing interest at twelve *per centum per annum* and secured by a mortgage of the tenure or holding to him;
- (b) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and
- (c) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

¹ Sub-section (4) applies only to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 54, in Vol. III of this Code.

² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 89 in Order XXI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1901-09, Ed. 1909, p. 184.

of 1885.]

*(Chapter XIV.—Sale for Arrears under Decree.—
Secs. 172-174.)*

172. When a tenure or holding is advertised for sale under this Chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may, in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Inferior tenant paying into Court may deduct from rent.

14 of 1882

173. (1) Notwithstanding anything contained in section 294 of the Code of Civil Procedure¹, the holder of a decree in execution of which a tenure or holding is sold under this Chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

Decree-holder may bid at sale; judgment-debtor may not.

(2) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it shall be paid by the judgment-debtor.

174. (1) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and, for payment to the purchaser, a sum equal to five *per centum* of the purchase-money.

Application by judgment-debtor to set aside sale.

14 of 1882

(2) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure² shall apply in the case of a sale so set aside:

14 of 1882

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure³ to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section; ⁴[and, if he applies under this section,

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 72 in Order XXI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

² This reference should now be taken to be made to rule 98 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ This reference should now be taken to be made to rule 90 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁴ These words in square brackets were added to section 174 (2), proviso, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 55, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 56, in Vol. III of

(Chapter XIV.—Sale for Arrears under Decree. Chapter XV.—Contract and Custom.—Secs. 175-178.)

he shall not be entitled to make an application under section 14 of 1882. 311 of the Code of Civil Procedure¹.]

(3) Section 313 of the Code of Civil Procedure² shall not 14 of 1882. apply to any sale under this Chapter.

Registration of certain instruments creating incumbrances.

175. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877,³ an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act⁴ to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act. 3 of 1877

Notification of incumbrances to landlord.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

* Power to create incumbrances not extended.

* **177.** Nothing contained in this Chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

CHAPTER XV.

CONTRACT AND CUSTOM.

Restrictions on exclusion of Act by agreement.

178. (1) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

- (a) shall bar in perpetuity the acquisition of an occupancy-right in land, or
- (b) shall take away an occupancy-right in existence at the date of the contract, or
- (c) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or
- (d) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

¹ Act 64 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 90 in Order XXI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

² This reference should now be taken to be made to rule 91 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ Act 8 of 1877 has been repealed and re-enacted by the Indian Registration Act, 1908 (16 of 1908), and this reference should now be construed as a reference to Part IV of the latter Act—see the General Clauses Act 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1908, p. 679.

⁴ This reference should now be construed as a reference to section 17 of the Indian Registration Act, 1908 (16 of 1908)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1908, p. 679.

of 1885.]

(Chapter XV.—Contract and Custom.—Sec. 178.)

(2) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act, shall prevent a *raiyat* from acquiring, in accordance with this Act, an occupancy-right in land.

(3) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

- (a) prevent a *raiyat* from acquiring, in accordance with this Act, an occupancy-right in land;
- (b) take away or limit the right of an occupancy-*raiyat* to use land as provided by section 23;
- (c) take away the right of a *raiyat* to surrender his holding in accordance with section 86;
- (d) take away the right of a *raiyat* to transfer or bequeath his holding in accordance with local usage;
- (e) take away the right of an occupancy-*raiyat* to sub-let subject to, and in accordance with, the provisions of this Act;
- (f) take away the right of a *raiyat* to apply for a reduction of rent under section 38 or section 52;
- (g) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or
- (h) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows:—

- (i) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would, under Chapter V, be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;
- (ii) when a landlord has reclaimed waste-land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a *raiyat*, nothing in this Act shall affect the terms of any contract whereby a *raiyat* is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a *raiyat*;
- (iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of ¹[horticultural or] orchard land with agricultural crops.

¹ These words in square brackets in proviso (iii) were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 56 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 56 (1), in Vol. III of the

(Chapter XV.—Contract and Customs.—Secs. 179-183.)

¹ [Explanation.—The expression “horticultural land,” as used in proviso (iii), means garden land, in the occupation of a proprietor or permanent tenure-holder, which is used *bonâ fide* for the cultivation of flowers or vegetables, or both, grown for the personal use of such proprietor or permanent tenure-holder and his family, and not for profit or sale.]

Permanent
mukarrari
leases.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent *mukarrari* lease on any terms agreed on between him and his tenant.

Utbandi, *char*
and *diâra*
lands.

180. (1) Notwithstanding anything in this Act, a *raiyyat*—

(a) who, in any part of the country where the custom of *utbandi* prevails, holds land ordinarily let under that custom and for the time being let under that custom, or

(b) who holds land of the kind known as *char* or *diâra*, shall not acquire a right of occupancy—

in case (a), in land ordinarily held under the custom of *utbandi* and for the time being held under that custom, or

in case (b), in the *char* or *diâra* land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(2) Chapter VI shall not apply to *raiyyats* holding land under the custom of *utbandi* in respect of land held by them under that custom.

(3) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be *char* or *diâra* land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to
service-
tenures.

181. Nothing in this Act shall affect any incident of a *ghatwali*² or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Homesteads.

182. When a *raiyyat* holds his homestead otherwise than as part of his holding as a *raiyyat*, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a *raiyyat*.

Saving of
custom.

183. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or

¹ This Explanation was added to proviso (iii), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 56 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 56 (2), in Vol. II of this Code.

² As to *ghatwali* tenures, see the Bengal Ghatwali Lands Regulation, 1814 (29 of 1814), ante, p. 428, and the Bengal Ghatwali Lands Act, 1849 (5 of 1849), ante, p. 381.

of 1885.]

(Chapter XV.—Contract and Customs. Chapter XVI.—Limitation. Chapter XVII.—Supplemental.—Secs. 184-186.)

by necessary implication modified or abolished by, its provisions.

Illustrations

(1) A usage under which a *raiyat* is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-*raiyat* should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

184. (1) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that Schedule for them, respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed although limitation has not been pleaded.

Limitation in suits, appeals and applications in Schedule III.

(2) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

15 of 1877

185. (1) Sections 7, 8 and 9 of the Indian Limitation Act, 1877¹, shall not apply to the suits and applications mentioned in the last foregoing section.

Portions of the Indian Limitation Act not applicable to such suits, etc.

15 of 1877

(2) Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1877², shall apply to all suits, appeals and applications mentioned in the last foregoing section.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties.

186. (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

Penalties for illegal interference with produce.

(a) distrains or attempts to distrain the produce of a tenant's holding, or,

¹ Act 15 of 1877 has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to sections 6, 7, 8 and 9 of the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 679.

² This reference should now be construed as a reference to the Indian Limitation Act, 1908 (9 of 1908)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 679.

(Chapter XVII.—Supplemental.—Secs. 186A, 187.)

- (b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or,
- (c) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code¹.

45 of 1860

(2) Any person who abets, within the meaning of the Indian Penal Code¹, the doing of any act mentioned in sub-section (1), shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code¹.

45 of 1860

² Damages for denial of landlord's title.

Damages for denial of landlord's title. Damages for denial of landlord's title.

² **186A.** (1) When, in any suit between a landlord and tenant as such, the tenant renounces his character as tenant of the landlord by setting up without reasonable or probable cause title in a third person or himself, the Court may pass a decree in favour of the landlord for such amount of damages, not exceeding ten times the amount of the annual rent payable by the tenant, as it may consider to be just.

(2) The amount of damages decreed under sub-section (1), together with any interest accruing due thereon, shall, subject to the landlord's charge for rent, be a first charge on the tenure or holding of the tenant; and the landlord may execute such decree for damages and interest, either as a decree for a sum of money, or, subject to the provisions of section 158B, in any of the modes in which a decree for rent may be executed.

Agents and representatives of landlords.

Agents and representatives of landlords. Power for landlord to act through agent.

187. (1) Any appearance, application or act, in, before or to any Court or authority, required or authorized by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

(2) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

¹ Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

² This heading and section 186A. were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 67, and, for Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 67 in Vol. III of this Code.

of 1885.]

(Chapter XVII.—Supplemental.—Secs. 188, 189.)

(3) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

188. Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Joint-landlords to act collectively or by common agent.

Procedure in suits by joint-landlords.

¹ **188A.** Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV³ shall, so far as may be practicable, be applicable.

² **188A.** Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under section 148A or section 158B the provisions of Chapter XIV³ shall, so far as may be practicable, be applicable.

Procedure in suits by joint-landlords.

Rules under Act.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,⁴ consistent with this Act,—

Rules under Act.

Power to make rules regarding procedure, powers of officers and services of notices.

- (1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

- (a) any power exercised by a Civil Court in the trial of suits;

¹ This section 188A applies to Western Bengal. It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s. 58, in Vol. III of this Code.

² This section 188A applies to Eastern Bengal. It was inserted by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 58, in Vol. III of this Code.

The only difference in section 188A, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the matter printed in italics.

³ Section 158B forms part of Chapter XIV—see p. 581, ante.

⁴ For rules made under section 189 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter XVII.—Supplemental.—Sec. 190.)

(b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875¹; and

(c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

Ben Act 5 of
1875

²[(2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

(3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord; and

(4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with.]

Procedure for
making,
publication
and confirm-
ation of
rules.

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

¹ Printed in Vol. II of this Code.

² These sub-sections (2) to (4) were substituted for the original sub-section (2), for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 59, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act of 1908), s. 59, in Vol. III of this Code. The original sub-section ran thus:—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

of 1885.]

*(Chapter XVII.—Supplemental.—Secs. 191-194.)**Provisions as to temporarily-settled districts.*

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitively or confirm settlements.

192. When a landlord grants a lease or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(a) land-revenue is for the first time made payable in respect of the land, or

(b) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant,¹ [or of his own motion,] fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Provisions as to temporarily-settled districts.
Saving as to land held in a district not permanently settled.

Power to alter rent in case of new assessment of revenue.

Rights of pasturage, etc.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-right, rights over fisheries and the like.

Rights of pasturage, etc.

Rights of pasturage, forest-rights, etc.

Saving for conditions binding on landlords.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Saving for conditions binding on landlords.

Tenant not enabled by Act to violate conditions binding on landlords.

¹ These words in square brackets in section 192 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 60, and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 60, in Vol. III of this Code.

(Chapter XVII.—Supplemental.—Secs. 195, 196.)

Savings for special enactments.

*Savings for
special enact-
ments.
Savings for
special
enactments.*

195. Nothing in this Act shall affect—

- (a) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;
- (b) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue authorities;
- (c) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;
- (d) any enactment relating to the partition of revenue-paying estates;
- (e) any enactment relating to *patni* tenures, in so far as it relates to those tenures; or
- (f) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

*Construction
of Act.
Act to be read
subject to
Acts hereafter
passed by
Lieutenant-
Governor of
Bengal in
Council.*

196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.¹

¹ But see now the Indian Councils Act, 1892 (55 & 56 Vict., c 14), s. 5, in the Collection of Statutes relating to India, Vol. II, Ed. 1901, p. 913

of 1885.]

(Schedule I.—Repeal of Enactments.)

SCHEDULE 1.

(See section 2)

REPEAL OF ENACTMENTS

Regulations of the Bengal Code.

Number and year.	SUBJECT OF REGULATION	Extent of repeal.
¹ 8 of 1793 ...	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>zamindars</i> , independent <i>talukdars</i> and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those Provinces, respectively, on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates	Sections 51, 52, 53, 54, 55, 64 and 65.
² 12 of 1805 ...	A Regulation for the settlement and collection of the public revenue in the <i>zila</i> of Cuttack, including the <i>parganas</i> of Pataspur, Kamardachor, and Bhogra, at present included in the <i>zila</i> of Midnapore.	Section 7.
³ 5 of 1812 ...	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	Sections 2, 3, 4, 26 and 27.
⁴ 18 of 1812 ...	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
⁵ 11 of 1825 ...	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "Not" if annexed to a subordinate tenure" to the end of the clause.

¹ The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.² The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 97. Section 7 has since been repealed every where by the Repealing and Amending Act, 1903 (1 of 1903).³ The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 123.⁴ The Bengal Leases and Land-revenue Regulation, 1812. It is printed *ante*, p. 181.⁵ The Bengal Alluvion and Diluvion Regulation, 1825. It is printed *ante*, p. 279.

*(Schedule I.—Repeal of Enactments.)**Acts of the Bengal Council.*

Number and year.	SUBJECT OF ACT.	Extent of repeal.
¹ 6 of 1862 ...	An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
² 4 of 1867 ...	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
³ 8 of 1869 ...	An Act to amend the Procedure in suits between landlords and tenants.	The whole Act.
⁴ 8 of 1879 ...	An Act to define and limit the powers of Settlement officers.	The whole Act.

Act of the Governor General in Council.

⁵ 10 of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
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¹ The Bengal Rent Act, 1862. It is printed in Vol. II of this Code.² The Bengal Rent (Appeals) Act, 1867. It is printed in Vol. II of this Code.³ The Landlord and Tenant Procedure Act, 1869.⁴ The Bengal Rent Settlement Act, 1879. It is printed in Vol. II of this Code.⁵ The Bengal Rent Act, 1859. It is printed *ante*, p. 387.

of 1885.]

(Schedule II.—Forms of Receipt and Account.)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT

(See sections 56 and 57.)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION)

1. Serial number of Receipt
2. Estate ; Village *Thana*
3. Tenant's name ; Son of
4. Particulars of the holding—
Nakdi, Bighas ; rent Rs.
Bhaoli, Bighas ; Maunds ; Rs.
Jalkar, Rs.
Bankar, Rs.
Phalkar, Rs.
 Government Cesses { Road Cess, Rs.
 Public Works Cess, Rs.

5. Signature of the Landlord or his Authorized Agent

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION)

1. Serial number of Receipt
2. Estate ; Village *Thana*
3. Tenant's name ; Son of
4. Particulars of the holding—
Nakdi, Bighas ; rent Rs.
Bhaoli, Bighas ; Maunds ; Rs.
Jalkar, Rs.
Bankar, Rs.
Phalkar, Rs.
 Government Cesses { Road Cess, Rs.
 Public Works Cess, Rs.

5. Signature of the Landlord or his Authorized Agent

Section 56 of the Bengal Tenancy Act, 1885, provides as follows—
 (1) When a tenant makes a payment for account of the year or the year and installment to which he wishes the payment to be credited, and the receipt is duly acknowledged by the landlord, the payment may be credited to the account of such year and installment as the landlord thinks fit.
 (2) If the tenant does not make such declaration, the payment may be credited to the account of such year and installment as the landlord thinks fit.

of 1885.]

(Schedule II.—Forms of Receipt and Account.)

FORM OF ACCOUNT.

1	Year			
2	Tenant's name			
3	Particulars of holding—(area, rent, etc.)	Rs. A P.		
	<i>Nukda</i>	<i>Bighas</i>	Rate	
	Government Cesses			
	<i>Bhaoli</i>	<i>Bighas</i>	Maunds	
	<i>Jalkar</i>			
	<i>Bankar</i>			
	<i>Phalkar</i>			
4	Demand of the year			Rs. A P.
5	Balance of former years (<i>Bakaya</i>)			
6	Total demand (current and arrear)			Rs. A P.
7	Paid each on account of { Current demand Arrear demand			
8	Paid in kind		Maunds	
9	Balance outstanding at end of year			Rs. A P.
10	Signature of the Landlord or his Authorized Agent			

FORM OF ACCOUNT.

1	Year			
2	Tenant's name			
3	Particulars of holding—(area, rent, etc.)	Rs. A P.		
	<i>Nukdi</i>	<i>Bighas</i>	Rate	
	Government Cesses			
	<i>Bhaoli</i>	<i>Bighas</i>	Maunds	
	<i>Jalkar</i>			
	<i>Bankar</i>			
	<i>Phalkar</i>			
4	Demand of the year			Rs. A P.
5	Balance of former years (<i>Bakaya</i>)			
6	Total demand (current and arrear)			Rs. A P.
7	Paid each on account of { Current demand Arrear demand			
8	Paid in kind		Maunds	
9	Balance outstanding at end of year			Rs. A P.
10	Signature of the Landlord or his Authorized Agent			

(Schedule III.—Limitation.)

SCHEDULE III.

LIMITATION

(See section 184.)

PART I—Suits

Description of suit.	Period of limitation.	Time from which period begins to run.
1. To eject any tenure-holder or <i>raiyat</i> on account of any breach of a condition in respect of which there is a contract expressly providing that ejection shall be the penalty of such breach.	One year ...	The date of the breach.
² [1 (a) To eject a non-occupancy- <i>raiyat</i> on the ground of the expiration of the term of his lease.	Six months ...	The expiration of the term.]
2. For the recovery of an arrear of rent ³ [in a suit brought by— (i) a sole landlord, (ii) the entire body of landlords, or (iii) one or more co-sharer landlords]— (a) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding ; (b) in other cases ...	Six months ... Three years ...	The date of the service of notice of the deposit. ⁴ [The last day of the agricultural year in which the arrear fell due.]
3. To recover possession of land claimed by the plaintiff as ⁵ [a <i>raiyat</i> or an under- <i>raiyat</i> .]	Two years ...	The date of dispossession.

¹ The word "rent", in Sch. III, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 493.

² Article 1 (a) was inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 61 (1), in Vol. III of this Code.

³ These words in square brackets in Article 2 were inserted, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (a), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 61 (a), in Vol. III of this Code.

⁴ This entry in square brackets was substituted for the original entry, for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 61 (b), in Vol. III of this Code. The original entry ran thus:—

"The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of *Jeth* of the *Amil* or *Fasil* year in which the arrear fell due, where either of those years prevails."

⁵ These words in square brackets in Article 3 were substituted for the words "an occupancy-*raiyat*", for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (3), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 61 (3), in Vol. III of this Code.

of 1885.]

*(Schedule III.—Limitation.)*PART II.—*Appeals.*

Description of appeal.	Period of limitation.	Time from which period begins to run.
4 From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days ...	The date of the decree or order appealed against.
5 From any order of a Collector under this Act, to the Commissioner.	Thirty days ...	The date of the order appealed against.

PART III.—*Applications.*

Description of application	Period of limitation.	Time from which period begins to run.
6 For the execution of a decree or order made ¹ [in a suit between landlord and tenant to whom the provisions of this Act are applicable,] and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act 1877. ²	Three years ...	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

15 of 1877

¹ These words in square brackets in Article 6 were substituted for the words "under this Act, or any Act repealed by this Act," for Western Bengal, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (4), and, for Eastern Bengal, by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 61 (4), in Vol. III of this Code.

² Act 15 of 1877 has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

ACT 8 OF 1886

[THE BENGAL TENANCY (AMENDMENT) ACT, 1886].¹

(8th March, 1886.)

8 of 1885

An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.²

Whereas it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885,² in manner hereinafter appearing; It is hereby enacted as follows :—

1. In section 12, sub-section (2), before the word “mortgage” the word “usufructuary” shall be inserted.

2. (1) In section 13, sub-section (1), before the words “the Court” the words “or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,” shall be inserted.

(2) In the same sub-section, before the word “require” the words “or making a decree or order absolute for the foreclosure” shall be inserted.

(3) In the same sub-section, before the words “to pay into Court” the words “or mortgagee” shall be inserted.

(4) In the same sub-section, before the words “on the landlord” the words “or final foreclosure” shall be inserted.

(5) In section 13, sub-section (2), before the words “the Court” the words “or the decree or order absolute for the foreclosure has been made,” shall be inserted.

(6) In the same sub-section, before the words “in the prescribed form,” the words “or final foreclosure” shall be inserted.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1903), Sch. I,—*see post*, p. 734

LEGISLATIVE PAPERS.—For Proceedings in Council, *see* Gazette of India, Supplement, 1886, pp. 293 and 301

LOCAL EXTENT.—Since this Act merely amends the Bengal Tenancy Act, 1885 (8 of 1885), its local extent must be taken to be the same as that of the latter Act, as to which *see* the “Local Extent” foot-note on page 491, *ante*.

² Printed *ante*, p. 491

ACT 12 OF 1887

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887).

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610 THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887.

[Act 12 of 1887.]

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ACT 12 OF 1887

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887).¹

(11th March, 1887.)

An Act to consolidate and amend the law relating to Civil Courts in Bengal, [*the North-Western Provinces² and Assam.*]

Whereas it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, [*the North-Western Provinces² and Assam*]; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal, [Agra]³ and Assam Civil Courts Act, 1887.

Title, extent
and com-
mencement.

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal,⁴ [*the Lieutenant-Governor of the North-Western Provinces² and the Chief Commissioner of Assam,*] except such portions

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1881, Pt. V, p. 1455; for Preliminary Report of Select Committee, see *ibid*, 1886, Pt. V, p. 967; and for Proceedings in Council, see *ibid*, 1881, Supplement, pp. 1132, 1169, 1414 and 1423; *ibid*, 1886, Supplement, p. 1458; *ibid*, 1887, Pt. VI, pp. 31 and 33.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal (among other territories), with the exception of the territories not subject to the ordinary civil jurisdiction of the High Court—see s. 1 (2), *post*, p. 612.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

FURTHER ENACTMENTS AS TO COURTS.—As to the constitution, jurisdiction and powers of the Calcutta High Court, see the Indian High Courts Act, 1861, 24 & 25 Vict., c. 104 (printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 357), and the Indian High Courts Act, 1865 (28 & 29 Vict., c. 15) (printed in *ibid*, p. 396).

As to the jurisdiction of the High Court in Darjeeling, see the Darjeeling (High Court's Jurisdiction) Act, 1867 (19 of 1867), *ante*, p. 457.

As to Small Cause Courts, see the Presidency Small Cause Courts Act, 1882 (15 of 1882), in General Acts, 1879-86, Ed. 1909, p. 400, and the Provincial Small Cause Courts Act, 1887 (9 of 1887), in General Acts, 1887-97, Ed. 1909, p. 10.

As to Civil Court *Amins*, see the Bengal Civil Court *Amins* Act, 1899 (Ben. Act 2 of 1899), in Vol. III of this Code.

As to Civil Courts in the Chittagong Hill-tracts, see the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), Chs. III and V, *post*, pp. 796 and 798.

As to the constitution and powers of Criminal Courts, see the Code of Criminal Procedure, 1898 (5 of 1898), Part II (in General Acts, 1898-08, Ed. 1909, p. 44).

As to the Court of the Coroner of Calcutta, see the Coroners Act, 1871 (4 of 1871), *ante*, p. 461.

As to non-liability of the Government for errors or irregularities in proceedings of Courts, and non-liability of Government officers for things done in conformity with decrees, etc., see the Bengal Government Indemnity Regulation, 1822 (11 of 1822), s. 38, *ante*, p. 249.

²The name of these Provinces has since been changed—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, in General Acts, 1898-08, Ed. 1909, p. 566.

³This word "Agra" in section 1 (1) was substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *post*, p. 768.

⁴This includes the present Presidency of Fort William in Bengal and other territory.

(Chapter I.—Preliminary—Chapter II.—Constitution of Civil Courts.—Secs. 2-6.)

of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, * * *¹ and

(3) It shall come into force on the first day of July, 1887.

2. (1) (*Repeal of Acts 6 of 1871 and 19 of 1877.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

Saving.

(2) * * * all Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,³ 6 of 1871 or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,³ or to any enactment thereby repealed, 6 of 1871 shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the following classes of Civil Courts under this Act, namely:—

- (1) the Court of the District Judge;
- (2) the Court of the Additional Judge;
- (3) the Court of the Subordinate Judge; and
- (4) the Court of the *Munsif*.

Number of District Judges and Subordinate Judges.

Number of *Munsifs*.

4. The Local Government may, with the previous sanction of the Governor General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed.

5. The Local Government may, subject to the control of the Governor General in Council, alter the number of *Munsifs* now fixed:

Provided that, except in the case of *Munsifs* whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of *Munsifs* now fixed shall not be made by the Local Government without the previous sanction of the Governor General in Council.

Vacancies among District or Subordinate Judges.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor General

¹ The words "and except the Jhansi Division," in s. 1 (2), which were repealed by the North-Western Provinces and Oudh Act, 1890 (20 of 1890), s. 9 (1), are omitted.

² The word "But", in section 2, sub-section (2), which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

³ Act 6 of 1871 was repealed by section 2 (1) of the present Act.

of 1887.]

(Chapter II.—Constitution of Civil Courts.—Secs. 7-10.)

in Council has sanctioned an increase of the number of District Judges, or Subordinate Judges, the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

7. (1) Whenever the office of *Munsif* is vacant, or whenever the Local Government increases the number of *Munsifs*, the High Court shall nominate such person as it thinks fit to be a *Munsif*, and the Local Government shall appoint him accordingly.

Vacancies
among
Munsifs.

(2) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor General in Council, make rules¹ as to the qualifications of persons to be appointed to the office of *Munsif*.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court * * * * *,² appoint such Additional Judges as may be requisite.

Additional
Judges.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Administra-
tive control
of Courts.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

Temporary
charge of
District
Court.

¹ For rules made under section 7 (2) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² The words "and with the previous sanction of the Governor General in Council," in s. 8, which were repealed by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 3, are omitted.

(Chapter II.—Constitution of Civil Courts.—Secs. 11-13.)

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of
proceedings
on vacation
of office of
Subordinate
Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary
charge of
office of
Munsif.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of *Munsif*, may appoint such person as he thinks fit to act in the office until that person is relieved by a *Munsif* appointed under section 7 or his appointment is cancelled by the District Judge.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix
local limits
of jurisdic-
tion of
Courts.

13. (1) The Local Government may, by notification¹ in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more *Munsifs*, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or *Munsif*, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges or to one of two or more *Munsifs*, a decree or order passed by the Subordinate Judge or *Munsif* shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (1).

¹ For lists of notifications issued under section 13 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1887.]

(Chapter II—Constitution of Civil Courts.—Chapter III.—
Ordinary Jurisdiction.—Secs. 14-17.)

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or *Munsif* is a Subordinate Judge or *Munsif*, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. (1) The Local Government may, by notification¹ in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held. Place of sitting of Courts.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

15. (1) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts. Vacations of Courts.

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government. Seals of Courts.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred. Continuance of proceedings of Courts ceasing to have jurisdiction.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure² or in any other enactment for the time being in force.

11 of 1882

CHAPTER III.

ORDINARY JURISDICTION.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure,³ to all original suits for the time being cognizable by Civil Courts. Extent of original jurisdiction of District or Subordinate Judge.

14 of 1882.

¹ For lists of notifications issued under s. 14 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to sections 86, 87 and 114 of, and rule 13 in Order XLVII in Schedule I to, that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ This reference should now be taken to be made to section 15 of the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Chapter III.—Ordinary Jurisdiction.—Chapter IV.—Special Jurisdiction.—Secs. 19-22.)

Extent of jurisdiction of *Munsif*.

19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a *Munsif* extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any *Munsif* named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

Appeals from District and Additional Judges.

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals from Subordinate Judges and *Munsifs*.

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a *Munsif* shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from or all any of the decrees or orders of any *Munsif* shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to transfer to Subordinate Judges appeals from *Munsifs*.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of *Munsifs*.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer

of 1887.]

(Chapter IV.—Special Jurisdiction.—Secs. 23, 24.)

it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

23. (1) The High Court may, by general or special order,¹ authorize any Subordinate Judge or *Munsif* to take cognizance of, or any District Judge to transfer to a Subordinate Judge or *Munsif* under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

Exercise by Subordinate Judge or *Munsif* of jurisdiction of District Court in certain proceedings.

(2) The proceedings referred to in sub-section (1) are the following, namely:—

(a) proceedings under Bengal Regulation 5, 1799² (*to limit the Interference of the Zila and City Courts of Diwani Adalat in the Execution of Wills and Administration to the Estates of persons dying intestate*);

(d) proceedings under the Indian Succession Act, 1865,⁴ and the Probate and Administration Act, 1881,⁵ which cannot be disposed of by District Delegates; and

(e) references by Collectors under section 322C of the Code of Civil Procedure.⁶

10 of 1865

5 of 1881.

14 of 1882

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or *Munsif*, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or *Munsif*, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Disposal of proceedings referred to in last foregoing section.

Provided that an appeal from an order of a *Munsif* in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the *Munsif* under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

¹ For a list of orders made under section 23 (1) for Bengal as constituted on the 31st March, 1912—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² The Bengal Wills and Intestacy Regulation, 1799. It is printed *ante*, p. 77.

³ Clause (b) [which referred to proceedings under Act 40 of 1858 (Minors) or Act 9 of 1861 (Minors)] and clause (c) [which referred to applications for certificates under Act 27 of 1860 (Succession)] were repealed by the Guardians and Wards Act, 1890 (8 of 1890), printed in General Acts, 1887-97, Ed. 1909, p. 205, and the Succession Certificates Act, 1889 (7 of 1889) printed in General Acts, 1887-97, Ed. 1909, p. 187, respectively, and are omitted.

⁴ Printed in General Acts, 1834-67, Ed. 1909, p. 473.

⁵ Printed in General Acts, 1879-86, Ed. 1909, p. 80.

⁶ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 5 in Sch. III to that Code—s. 168 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Chapter IV.—*Special Jurisdiction*.—Chapter V.—*Misfeasance*.—Secs. 25-29.)

Power to invest Subordinate Judges and *Munsifs* with Small Cause Court jurisdiction.

25. The Local Government may, by notification¹ in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or *Munsif* the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,² for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or³ [two hundred and fifty rupees] in the case of a *Munsif* as it thinks fit, and may withdraw any jurisdiction so conferred. 9 of 1887

CHAPTER V

MISFEASANCE.

Suspension or removal of Judges by Local Government.

26. Any District Judge, Additional Judge, Subordinate Judge or *Munsif* may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge by High Court.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension or removal of *Munsif* by High Court.

28. (1) The High Court may appoint a commission for inquiring into alleged misconduct of a *Munsif*.

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the *Munsif*.

(3) The provisions of Act No. 37 of 1850⁴ (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

(4) The High Court may, before appointing the commission, suspend the *Munsif* pending the result of the inquiry.

(5) The High Court may, without appointing a commission remove or suspend a *Munsif*.

Suspension of *Munsif* by District Judge.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a *Munsif* under his administrative control.

(2) Whenever a District Judge suspends a *Munsif* under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

¹ For a notification issued under section 25, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² Printed in General Acts, 1887-97, Ed. 1909, p. 10.

³ The words "two hundred and fifty rupees" in section 25 were substituted for the words "one hundred rupees" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 4, *post*, p. 769.

⁴ The Public Servants (Inquiries) Act, 1850. It is printed in General Acts, 1834-67, Ed. 1909, p. 82.

of 1887.]

(Chapter VI.—Ministerial Officers.—Secs. 30-35.)

CHAPTER VI.

MINISTERIAL OFFICERS.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of District Courts

31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

Appointment and removal of ministerial officers of other Courts

- (a) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and
- (b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or *Munsif* may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :—

Appointment and removal of ministerial officers on joint establishments.

- (a) appointments not likely to last, and not lasting longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and
- (b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

33. The District Judge, subject only to the control of the the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

General powers of District Judge.

34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court.

Transfer of ministerial officers.

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined.

(Chapter VII.—Supplemental Provisions.—Secs. 36, 37.)

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Power to
confer
powers of
Civil Courts
on officers.

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

- (a) any officer in the [*Chota Nagpur*, ¹*Sambalpur*,
Jalpaiguri or Darjeeling district [or in any part of
the territories administered by the Chief Com-
missioner of Assam, except the district of Sylhet.] or,
- (b) after consultation with the High Court, any officer
serving in any other part of the territories to which
this Act extends and belonging to a class defined in
this behalf by the Local Government with the
previous sanction of the Governor General in
Council.

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive), or sections 27 to 35 (both inclusive), applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a *Munsif*, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a *Munsif*.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

Certain
decisions to
be according
to Native
law.

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

¹ This word "Sambalpur" was inserted by the Sambalpur Civil Courts Act, 1906 (Ben. Act 4 of 1906), s. 6.

of 1887.]

(Chapter VII.—Supplemental Provisions.—Secs. 38-40.)

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

Judges not
to try suits
in which
they are in-
terested

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

14 of 1882

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.¹

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure² the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

Subordination
of Courts to
District
Court.

14 of 1882

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.³

9 of 1887

Application
of Act to
Provincial
Courts of
Small Causes.

(2) Save as provided by that Act, the other sections of this Act do not apply to these Courts.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to section 24 of that Code—see section 158 thereof, in General Acts, 1904-09, Ed 1909, p 184

² This reference should now be taken to be made to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see section 158 thereof, in General Acts, 1904-09, Ed 1909, p 184

³ Printed in General Acts, 1887-97, Ed 1909, p 10

ACT 5 OF 1889

[THE CORONERS (MADRAS) ACT, 1889].¹

(1st March, 1889.)

An Act to abolish the Office of Coroner of Madras.

4 of 1871
10 of 1881
5 of 1898

Whereas it is expedient to abolish the office of Coroner of Madras, and for this purpose to amend the Coroners Act, 1871,² the Coroners Act 1881³, and ⁴[the Code of Criminal Procedure, 1898]; It is hereby enacted as follows:—

Commence-
ment.

1. This Act shall come into force on such day⁵ as the Governor of Fort St. George in Council may, by notification in the Fort St. George Gazette, appoint in this behalf.

4 of 1871.

2. For section 3 of the Coroners Act, 1871, the following shall be substituted, namely:—

Amendment
of the
Coroners
Act, 1871.

[Printed *ante*, p. 461.]

10 of 1881

3. (1) For the preamble to the Coroners Act, 1881, the following shall be substituted, namely:—

Amendment
of the Coro-
ners Act,
1881.

[Printed *ante*, p. 473.]

(2) (*Repeal of sections 2 to 4 of Act 10 of 1881.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

4. (1) (*Repeal of s. 1(e) of Act 10 of 1882.*) *Rep. by the Code of Criminal Procedure, 1898 (Act 5 of 1898).*

(2) [*Omitted, as applying only to Madras.*]

¹ SHORT TITLE.—This short title was given by the Amending Act, 1901 (11 of 1901), Sch. I¹ printed in General Acts, 1898-03, Ed. 1909, p. 540

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 148; for Report of Select Committee, *see* *ibid*, 1889, Pt. IV, p. 21; and for Proceedings in Council, *see* *ibid*, 1888, Pt. VI, p. 139, and 1889, Pt. VI, pp. 1, 16, 17 and 42.

LOCAL EXTENT.—Sections 2 and 3 (1) of this Act, like Act 4 of 1871 (*ante*, p. 461), extend to Calcutta.

² Printed *ante*, p. 461.

³ Printed *ante*, p. 473.

⁴ The words and figures printed in square brackets were substituted for the words and figures “the Code of Criminal Procedure, 1882,” by the Repealing and Amending Act, 1903 (1 of 1903)—*see* Sch. II, *post*, p. 750 The Code of Criminal Procedure, 1898 (Act 5 of 1898), is printed in the General Acts, 1898-03, Ed. 1909, p. 38.

⁵ The 1st June, 1889—*see* Fort St. George Gazette, 1889, Pt. I, p. 335

ACT 1 OF 1892

[THE COURT OF WARDS ACT (BENGAL) AMENDMENT ACT, 1892]¹.

(25th March, 1892.)

Ben. Act 9 of
1879

An Act to amend the Bengal Court of Wards Act, 1879.

Whereas it is expedient to amend the Court of Wards Act, 1879,² passed by the Lieutenant-Governor of Bengal in Council; It is hereby enacted as follows :—

1. (1) This Act shall be read with, and taken as part of, the Act aforesaid; Construction.

(Commencement.) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903.)*

2. In section 3, at the end of the clause defining “estate,” the following words shall be added, namely :— Addition to section 3.

“and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitakshara* or *Mithila* law.”

3. To section 6 the following clause shall be added, namely :— Addition to section 6.

(e) [Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

4. To section 7 the following proviso shall be added, namely :— Addition to section 7.

[Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

5. At the end of section 9 the following shall be added, namely :— Addition to section 9.

[The matter added to section 9 by this section has since been repealed—

in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 2, printed in Vol. III of this Code, and

in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 2 (1), printed in Vol. III of this Code.]

SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III.—

see post, p. 689

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 17; for Report of Select Committee, *see* *ibid*, p. 28; and for Proceedings in Council, *see* *ibid*, Pt. VI, pp. 20, 25 and 42

LOCAL EXTENT.—Since this Act is (*see* section 1) to be “read with and taken as part of” Bengal Act 9 of 1879, its local extent is the same as that of the latter Act, as to which *see* foot-note to that Act, in Vol. II of this Code.

² Printed in Vol. II of this Code.

(Secs. 6-13.)

Amendment
of section 10.**6.** In section 10, in the place of the first two clauses the following shall be inserted, namely :—

[Printed as part of Ben. Act 9 1879, in Vol. II of this Code.]

Substitution
of new
section 11.**7.** For section 11 the following section shall be substituted, namely :—

[Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

Amendment
of section 12.**8.** In section 12, for the words “which before the commencement of this Act was placed,” the following words shall be substituted, namely :—

“which either before or after the commencement of this Act was or is placed;”

and at the end of the first clause, after the figures „1858”, the following words shall be added, namely :—

“or under any other enactment for the time being in force.”

9. (*Repeal of proviso in Clause I, section 48.*) *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*Amendment
of section 49.**10.** In section 49, for the words “remains under the charge of the Court with his consent under section 11,” the following words shall be substituted, namely :—

“is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.”

Amendment
of section 56.**11.** *In section 56, instead of the words “who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11,” the following words shall be substituted, namely :—**“whose property is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.”*Addition to
section 60.**12.** To section 60 the following words shall be added, namely :—

“or to assign over or charge any allowance to be received by him from the Court.”

Insertion of
new section
after section
60.**13.** After section 60 the following section shall be inserted, namely :—**60A.** [Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]¹ Section 11 of this Act has been virtually repealed—in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (1 of 1906), s. 6, printed in Vol. III of this Code,
in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 8 of 1907), s. 8, printed in Vol. III of this Code.

ACT 5 OF 1892

(THE BENGAL MILITARY POLICE ACT, 1892).¹

(25th March, 1892.)

An Act for the Regulation of the Bengal Military Police.

Whereas it is expedient to make provision for the better regulation of the Bengal Reserve Police; It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Military Police Act, 1892.

Title, extent and commencement.

(2) It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal; ² and

(3) It shall come into force on such day³ as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) “Military Police-officer” means a person, appointed to the Bengal Police Force under section 7 of Act 5 of 1861,⁴ who has signed the statement in the Schedule to this Act, in accordance with the provisions of this Act:

(2) “active service” means service against hostile tribes or other persons in the field:

(3) “District Magistrate” includes a Deputy Commissioner, an Assistant Commissioner in charge of a sub-division [*and the Superintendent of the South Lushai Hills*]:

(4) “Commandant” means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District Superintendent of Police and an Assistant District Superintendent of Police in charge of the civil police of a district or of a sub-division:

(5) “Second-in-Command” means a person appointed by the Local Government to be a Second-in-Command of Military Police, and includes an Assistant District Superintendent of Police not in charge of the civil police of a district or of a sub-division: and

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, page 22; and for Proceedings in Council, *see* *ibid.*, Pt. VI, pages 22, 35 and 52.

LOCAL EXTENT.—This Act originally extended to the whole of the former Province of Bengal—*see* s. 1(2); but it has since been repealed in Eastern Bengal by the Eastern Bengal and Assam Military Police Act, 1912 (E. B. & A. Act 3 of 1912), s. 2, printed in Vol. III of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), *post*, p. 790. For similar enactments in force in those tracts, *see* the Chittagong Hill-tracts Frontier Police Regulation, 1881 (3 of 1881), *post*, p. 783, and the Eastern Bengal and Assam Military Police Act, 1912 (E. B. & A. Act 3 of 1912), in Vol. III of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory; but *see* the “Local Extent” foot-note above.

³ The 1st May 1892—*see* the Calcutta Gazette, 1892, Pt. I, p. 449.

⁴ The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

(Secs. 3-5.)

(6) the expressions “reason to believe,” “criminal force,” “assault,” “fraudulently” and “voluntarily causing hurt” have the meanings assigned to them respectively in the Indian Penal Code.¹ 45 of 1860

Enrolment
and dis-
charge of
Military
Police
Officers.

3. (1) Before an officer appointed to the Bengal Police Force under section 7 of Act 5 of 1861² is appointed to be a Military Police-officer, the statement in the Schedule shall be read and if necessary explained to him in the presence of a Magistrate, Commandant or Second-in-Command, and shall be signed by him in acknowledgment of its having been so read to him.

(2) Notwithstanding any notice given under section 9 of Act 5 of 1861² a Military Police-officer shall not be entitled to be discharged from the Bengal Police Force except in accordance with the terms of the statement which he has signed under this Act.

Classes and
grades of
Military
Police
Officers.

4. (1) There may be all or any of the following classes of Military Police-officers, which shall take rank in the order mentioned, namely :—

- | | |
|--------------------------------|-------------------------|
| (i) <i>subadars</i> -major, | (v) <i>havrildars</i> , |
| (ii) <i>subadars</i> , | (vi) <i>naiks</i> , |
| (iii) <i>jamadars</i> , | (vii) buglers, and |
| (iv) <i>havrildars</i> -major, | (viii) sepoy, |

and such grades in each class as the Local Government may direct.

(2) The expression “superior officer” in this Act means in relation to any Police-Officer :—

- (a) any officer of a higher class than or of a higher grade in the same class as himself, and
- (b) any Second-in-Command, Commandant or District Magistrate.

More
heinous
offences.

5. A Military Police-officer who—

- (a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or
- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend; or
- (d) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the

¹ Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

² The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

of 1892.]

(Sec. 6.)

State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; or

who, while on active service,—

- (e) disobeys the lawful command of his superior officer; or
- (f) deserts the service; or
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or
- (h) without authority leaves his commanding officer, or his post or party to go in search of plunder; or
- (i) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or
- (k) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

6. A Military Police-officer who—

Less heinous offences.

- (a) is in a state of intoxication when on or for any duty or on parade or on the line of march; or
- (b) strikes or attempts to force any sentry; or
- (c) being in command of a guard, picquet or patrol refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or
- (d) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (f) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or
- (g) strikes or otherwise ill-uses any military Police-officer subordinate to him in rank or position; or

(Sec. 7.)

- (h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority; or
 - (i) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or Military Police necessities, or any such articles entrusted to him or belonging to any other person; or
 - (j) malingers, or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or
 - (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or
- who, while not on active service,—
- (l) disobeys the lawful command of his superior officer; or
 - (m) plunders, destroys or damages any property of any kind; or
 - (n) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or
 - (o) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay or with both.

Minor punishments.

7. (1) A District Magistrate, Commandant or Second-in-Command, or an officer not being below the rank of *subadar* commanding a separate detachment or an outpost or in temporary command at the head-quarters of a district during the absence of the District Magistrate, Commandant and Second-in-Command may, without a formal trial, award to any Military Police-officer who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say—

- (a) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;
- (b) punishment drill, extra guard, fatigue, or other duty, not exceeding thirty days in duration, with or without confinement to quarters.

of 1892.]

(Secs. 8-13.)

(2) Any one of these punishments may be awarded separately or in combination with any one or more of the others.

8. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Bengal Police Force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct: but, when he is not also dismissed from that force, he may, if the convicting officer or District Magistrate, so directs, be confined in the quarter-guard or such other place as the convicting officer or District Magistrate may consider suitable.

Place of imprisonment

9. (1) Nothing in this Act shall prevent any person from being prosecuted under Act 5 of 1861¹, or under any order or rule made under that Act or under any other enactment for the time being in force for any act or omission punishable hereunder, or from being liable, if so prosecuted, to any other or higher penalty than is provided for that act or omission by this Act:

Saving of prosecutions under other laws.

(2) Provided that no person shall be punished twice for the same offence.

10. Notwithstanding anything in Act 5 of 1861¹, or in any other enactment for the time being in force, the Local Government may invest any Police-officer, not below the rank of Commandant, with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a Military Police-officer and punishable under Act 5 of 1861¹ or this Act.

Conferment of magisterial powers on police-officers.

11. Subject to such rules² as the Local Government may make in this behalf, a Commandant or Second-in-Command of Military Police shall have, with respect to Police-officers appointed to the Bengal Police Force under section 7 of Act 5 of 1861¹ who are not Military Police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

Disciplinary and other powers of Commandants and Second-in-Command of Military Police otherwise than in respect of Military Police.

12. A Commandant or Second-in-Command of Military Police shall be entitled to all the privileges which a Police-officer has under sections 42 and 43 of Act 5 of 1861¹, section 125³ of the Indian Evidence Act, 1872, and any other enactment for the time being in force.

Privileges of Commandants and Second-in-Command of Military Police as Police-officers

13. The Local Government may, as regards the Military Police, make such orders and rules⁴, consistent with this Act, as it thinks expedient.

Power to make rules

¹ The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

² For rules made under section 11 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

³ Printed in the General Acts, 1868-78, Ed. 1909, p. 241.

⁴ For rules made under section 13 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Schedule.)

SCHEDULE.

STATEMENT.

(See sections 2 and 3.)

AFTER you have served for three years in the Bengal Military Police, you may, at any time when not on active service, apply for your discharge through the officer to whom you may be subordinate, to a Commandant of Military Police or to the District Magistrate of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application unless your discharge would cause the vacancies in the Bengal Military Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Bengal Military Police ceases when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

(Signature of Police-officer in acknowledgment of the above having been read to him.) } A. B.

Signed in my presence after I had ascertained that A. B. understood the purport of what he signed. } C. D.
Magistrate, Commandant or Second-in-Command.

ACT 11 OF 1893

(THE TRIBUTARY MAHALS OF ORISSA ACT, 1893).¹

(21st September, 1893.)

An Act to make provision for certain matters connected with the Tributary *Mahals* of Orissa.

Whereas it is expedient * * *² to indemnify certain persons and validate acts done by them in, or in relation to, the said *Mahals* and to admit of certain sentences passed in those *Mahals* being carried into effect in British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Tributary Mahals of Orissa Act, 1893. Title and extent

(2) It extends to the whole of British India;

(Commencement.) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

2. (Repeal.) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

3. No suit, prosecution or other proceeding shall be begun or continued in respect of any act done before the commencement of this Act by any officer of the Government in respect of any of the Tributary *Mahals* of Orissa or any inhabitant thereof, such act purporting to have been done in the exercise of executive or judicial authority, and having, before or after the commencement of this Act, been ratified by the Government; and every such act is hereby confirmed and made valid, and every such officer indemnified and discharged from liability in respect thereof. Indemnity in respect of acts done before the commencement of this Act

4. (1) The Lieutenant-Governor of Bengal³ may authorize⁴ the reception, detention or imprisonment in any place under his Government, for the period specified in the sentence, of—

(a) any person sentenced to imprisonment or transportation for any term by any Court or tribunal acting under the authority of the British Government in, or in respect of, any Tributary *Mahal* in Orissa;

Execution in British India of certain sentences passed in Tributary *Mahals*.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see *Gazette of India*, 1893 Pt. V, p. 96; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 191, 196, 202 and 208.

LOCAL EXTENT.—This Act extends to the whole of British India—see s. 1, but is printed in this Code because it has been omitted from the General Acts, Ed. 1909.

The application of this Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

² The words “to repeal certain enactments relating to be Tributary *Mahals* of Orissa, and,” which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3 and Sch. D, item 1, *post*, pp. 774 and 776.

⁴ For an order made under section 4 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I. Pt. IV.

(Sec. 4—Schedule.)

(b) any Native Indian subject of Her Majesty residing in any such *Mahal*, or any Native subject of a Chief of any such *Mahal*, when, in either case such Native subject as aforesaid has been sentenced by such a Chief or by a subordinate Court of such a Chief to imprisonment for a term exceeding six months.

(2) The place or places within the territories subject to the Lieutenant-Governor of Bengal¹ in which persons may be received, detained or imprisoned under sub-section (1) shall be such as the said Lieutenant-Governor² may, by general or special order, direct.

(3) A sentence shall be of the same force and effect in the place in which it may be carried into effect under this section as if it had been passed by a competent Court in that place.

THE SCHEDULE.

ENACTMENTS REPEALED.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

¹ This includes the present Presidency of Fort William in Bengal and other territory.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

ACT 5 OF 1897

(THE AMENDING ACT, 1897.)¹

(25th February, 1897.)

An Act to amend and facilitate the citation of certain enactments.

“whereas it is expedient that certain formal amendments should be made in the enactments specified in the second Schedule to this Act;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third Schedule to this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Amending Act 1897; and

Title and
commence-
ment

(2) It shall come into force at once.

2. (1) (*Repeals.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

(2) The enactments specified in the second Schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

Enactments
in second
Schedule
amended.

3. (*Savings.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

4. Each of the enactments described in the first three columns of the third Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation of
certain enact-
ments.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see *Gazette of India*, 1897, Pt. V, p. 50, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 41 and 44.

LOCAL EXTENT.—Since this Act has no “local extent” clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed in this Code because portions of the Schedules are omitted from the Act as published in the General Acts, Ed. 1909.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

OTHER ACTS CONFERRING SHORT TITLES.—For other Acts which confer short titles on a series of enactments, see the Indian Short Titles Act, 1897 (14 of 1897), in General Acts, 1887-97, Ed. 1909, p. 586, and the Repealing and Amending Act, 1903 (1 of 1903), *post*, p. 721.

The Short Titles Act now in force in England is 59 & 60 Vict., c. 14, printed in the Collection of Statutes relating to India, Vol. II, Ed. 1901, p. 1,255.

² The words “to repeal certain obsolete enactments and,” in the title, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903) are omitted.

³ The word “other,” in the title, which was repealed by the Repealing and Amending Act 1903 (1 of 1903), is omitted.

⁴ Portions of the preamble which were repealed by the Repealing and Amending Act, 1903, (1 of 1903), are omitted here.

⁵ The words “Repealing and,” in s. 1 (1), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

(Schedules I & II.)

THE FIRST SCHEDULE.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903):

THE SECOND SCHEDULE.

1	2	3	4
Year.	No.	Short title or subject	Amendment.

Part I.—Act of the Governor General in Council.

1	2	3	4

Part II.—Acts of the Lieutenant-Governor of Bengal in Council

1852	8 ²	Zaminlari Daks	... In section 11, for Act 17 of 1854 (for the management of the Post Office, for the Regulation of the duties of postage, and for the punishment of offences against the Post Office) read the Indian Post Office Act, 1866.
1884	3 ⁴	Bengal Municipal Act, 1884.	In section 37 J. (inserted by Bengal Act 4 of 1894 (section 23), for the Loans Act, 1879, read the Local Authorities Loan Act, 1879. In section 219 (as amended by Bengal Act 4 of 1894, section 64), for or two hundred and ten, two hundred and ten A read 210 or 210 A.
1887	2 ⁴	Vaccination (Amending Bengal Act 5 of 1880).	To section 3 add:— “The Schedule hereto annexed shall be annexed as The First Schedule to the Bengal Vaccination Act, 1880.”

¹ The entry relating to Act 1 of 1882 is omitted, as having been repealed by the Assam Labour and Emigration Act, 1901 (6 of 1901).

² Ben. Act 8 of 1862 has been repealed in Western Bengal by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), and is obsolete in Eastern Bengal.

³ The entry relating to Ben. Act 1 of 1883 is omitted, as having been repealed in Western Bengal by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and, in Eastern Bengal, by the Eastern and Assam Excise Act, 1910 (E. B. and A. Act 1 of 1910).

⁴ Printed in Vol. II of this Code.

⁵ The entry relating to Bengal Act 1 of 1889 is omitted, as having been repealed by the Assam Labour and Emigration Act, 1901 (6 of 1901).

of 1897.]

(Sch. II.)

THE SECOND SCHEDULE—*concl'd.*

1	2	3	4
Year	No.	Short title or subject	Amendment.
<i>Part III.—Regulations made under the Government of India Act, 1870 (3 Vict., c. 3.)</i>			
1883	1 ¹	<i>Sylhet and Cachar Rural Police Regulation, 1883.</i>	<i>In section 18, clause 10th, for the Indian Forest Act, 1878, read the Assam Forest Regulation, 1891.</i>
1886	1 ¹	<i>Assam Land and Revenue Regulation, 1886</i>	<i>To section 1 add :— (3) The Chief Commissioner may, in like manner amend, vary or rescind any notification issued under sub-section (2).</i>

Part IV.—Regulations of the Bengal Code.

1806	11 ²	Passage of Troops ...	<i>In section 4, clause third, for Governor General in Council, in each place in which those words occur, read Local Government.</i>
1812	11 ³	Removal of Foreign Immigrants	<i>In section 5, clause second, for to the Nizamut Adalat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper, read to the Local Government, and the Local Government shall pass such orders thereon as it may think fit. For Governor General in Council, wherever those words occur, read Local Government.</i>
1823	7 ⁴	Loans to Convenanted Officers.	<i>In section 3, for the words from All Judges to powers of such Collector, read All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service. In section 6 and also in section 8, for Governor-General in Council read Local Government. In section 8, for Government read the Local Government.</i>

¹ Regulations 1 of 1883 and 1 of 1886 relate only to Assam.² The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 111.³ The Bengal Foreign Immigrants Regulation, 1812. It is printed *ante*, p. 127.⁴ The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823. It is printed *ante*, p. 259.

(Sch. III.)

THE THIRD SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short title
<i>Part I. -Local Acts of the Governor General in Council in Force in Assam</i>			
1850	25 ¹	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819	The Forfeited Deposits Act, 1850
	33 ²	<i>For amending the forms necessary for the sale of patni tenures in Bengal</i>	<i>The Sale of Patni Tenures Act, 1850</i>
1853	6 ¹	Relating to summary suits for arrears of rent, to sales of <i>patni taluks</i> and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853
"	19 ⁴	<i>To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency</i>	<i>The Recusant Witnesses Act, 1853</i>
1856	12 ⁴	<i>To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.</i>	<i>The Civil Courts Amins Act, 1856</i>
1867	3 ⁵	<i>To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.</i>	<i>The Public Gambling Act, 1867.</i>

¹Printed ante.²Act 38 of 1850 has been repealed by the Repealing and Amending Act, 1903 (1 of 1903).³Act 19 of 1853 has been repealed (except in Assam) by the Repealing and Amending Act, 1903 (1 of 1903).⁴Act 12 of 1856 has been repealed in Bengal by the Bengal Civil Court Amins Act, 1899 (Ben. Act 2 of 1899).⁵Act 3 of 1867 does not apply to any part of Bengal.

of 1897].

(Sch. III).

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No	Subject	Short title.
<i>Part I—Local Acts of the Governor General in Council in force in Assam—concld.</i>			
1871	19 ¹	To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces	The Bengal Sessions Courts Act, 1871.
1874	8 ²	To provide for the exercise of the powers hitherto exercised by the Lieutenant-Governor and Board of Revenue of Bengal in the territories forming the Chief Commissionership of Assam	The Assam Chief Commissionership Act, 1874
..	12 ²	To provide for the exercise, in Sylhet, of the powers of the Lieutenant-Governor and Board of Revenue in Bengal	The Sylhet Act, 1874
1886	3 ³	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Act Amendment Act, 1878 ⁴ .
1892	4 ⁵	To amend the Bengal Court of Wards Act, 1879 [Act 9 (B C) of 1879]	The Court of Wards Act (Bengal) Amendment Act, 1892.

Part II—Regulation made under the Government of India Act, 1870 (33 Vict., c. 3)

1884	3 ⁶	To empower the extension of the Assam Frontier Tracts Regulation, 1880, to certain tracts in Assam and to declare that Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Naga Hills District and the Khâsi and Jaintia Hill Districts.	The Assam Frontier Tracts Regulation, 1881
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¹ Act 19 of 1871 has been repealed by the Repealing and Amending Act, 1903 (1 of 1903).² Acts 8 and 12 of 1874 were repealed by the Bengal and Assam Laws Act, 1905 (7 of 1905).³ Act 3 of 1886 does not apply to any part of Bengal.⁴ *Sic. Read* 1886.⁵ Printed *ante*, p. 625.⁶ Reg. 3 of 1884 relates only to Assam.

(Sch. III.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III—Regulations of the Bengal Code in force in Assam.</i>			
1793	1 ¹	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.	The Bengal Permanent Settlement Regulation, 1793
	2 ¹	For abolishing the Courts of <i>Mal Adalat</i> or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of <i>Dewan Adalat</i> ; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-Revenue Regulation, 1793.
	8 ¹	For re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>zamindars</i> , independent <i>talukdars</i> and other actual proprietors of land, in Bengal, Bihar and Orissa, passed for those provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	The Bengal Decennial Settlement Regulation, 1793.
	11 ¹	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.	The Bengal Inheritance Regulation, 1793.

¹ Printed ante.

of 1897.]

(Sch. III.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1793	38 ¹	For re-enacting, with modifications, such part of the rule passed on the 27th June, 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice on the collection of the public revenue lending money to <i>zamindars</i> , independent <i>talukdars</i> or other actual proprietors of land, or dependent <i>talukdars</i> or farmers of land holding farms immediately of Government, or the under-farmers or <i>raiya</i> s of the several descriptions of proprietors or farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793
1799	5 ¹	To limit the interference of the <i>Zila</i> Court of <i>Dirāni Adalat</i> in the execution of wills and administration to the estates of persons dying intestate	The Bengal Wills and Intestacy Regulation, 1799.
1800	10 ¹	For preventing the division of landed estates in the <i>Jangal Mahals</i> of the <i>Zila</i> of Midnapore and other districts.	The Bengal Inheritance Regulation, 1800.
1804	10 ¹	For declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.	The Bengal State-offences Regulation, 1804.

¹ Printed *ante*.

(Sch. III.)

THE THIRD SCHEDULE--*contd.*

1	2	3	4
Year.	No.	Subject	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1806	11 ¹	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers Assistance Regulation, 1806
1812	11 ¹	To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812
1818	3 ¹	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	8 ¹	To declare the validity of certain tenures, and to define the relative rights of <i>zamindars</i> and <i>patni talukdars</i> ; also to establish a process for the sale of such <i>taluks</i> in satisfaction of the <i>zamindar's</i> demand of rent.	The Bengal Patni Taluks Regulation, 1819.

¹ Printed *ante*.

of 1897.]

(Sch. III.)

THE THIRD SCHEDULE—*concl'd.*

1	2	3	4
Year.	No.	Subject	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—concl'd.</i>			
1820	1 ¹	For providing that all sales of certain <i>taluks</i> made answerable by sale for arrears by the <i>zamindar's</i> rent shall be conducted in the mode provided by Regulation 8, 1819, for the sales therein described	The Bengal Patni Taluks Regulation, 1820
1823	7 ¹	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.
1825	6 ¹	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories	The Bengal Troops Transport Regulation, 1825
"	11 ¹	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	3 ¹	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of judicature, who may be guilty of corruption or extortion	The Bengal Corruption and Extortion Regulation, 1827.
"	5 ¹	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827.
1829	17 ¹	For declaring the practice of <i>Sati</i> or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829.

ACT 6 OF 1901

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901).

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SECTION.

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652 THE ASSAM LABOUR AND EMIGRATION ACT, 1901.

[Act 6 of 1901.]

SECTION.

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ACT 6 OF 1901

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901)¹.

(9th March, 1901.)

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

Whereas it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

(2) It extends—

- (a) to the Provinces of Bengal (including the Sonthal Parganas), the North-Western Provinces, Oudh² and Assam, the Central Provinces and the District of Ganjam in the Province of Madras, and
- (b) to such other parts of British India as the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct.

(3) It shall come into force—

- (i) in the territories mentioned in clause (a) of subsection (2), at once; and

¹ LEGISLATIVE PAPERS.—This Act is an amalgamation of the provisions of two Bills separately introduced in Council—*see* Report of the Select Committee referred to below. Those Bills were the “Assam Labour and Emigration Bill” and the “Assam Emigrants Health Bill.”

For Statements of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, pp. 165 and 175, respectively; for Report of the Select Committee on both Bills, which led to their amalgamation, *see* Gazette of India, 1901, Pt. V, p. 27; for Proceedings in Council, *see* *ibid*, 1899, Pt. VI, pp. 225 and 234, relating to both Bills, and for Proceedings in Council after their amalgamation, *see* *ibid*, 1901, Pt. VI, pp. 15 and 32.

LOCAL EXTENT.—This Act extends *proprio vigore* to Bengal and certain other Provinces and the district of Ganjam, and may be extended by notification to other parts of British India—*see* s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *post*, p. 790.

ANNOTATED REPRINT.—For an annotated reprint of this Act, with rules and orders issued thereunder, *see* the Bengal Inland Emigration Manual, 1912.

OTHER ENACTMENTS.—As to the emigration of Natives of India and their departure by sea out of India, *see* the Indian Emigration Act, 1908 (17 of 1908), printed in the General Acts, 1904-09, Ed. 1909, p. 593, and the Indian Emigration (Amendment) Act, 1910 (14 of 1910).

² These territories are now called “the United Provinces of Agra and Oudh” —*see* the United Provinces (Designation) Act, 1902 (7 of 1902), in General Acts, 1898-1903, Ed. 1909, p. 565, and the United Provinces General Clauses Act 1904 (U. P. Act 1 of 1904), s. 29, in the United Provinces Code, 1906, Vol. II, p. 925.

(Chapter I.—Preliminary.—Sec. 2.)

- (ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) “agent” means garden-*sardar* or other person engaging or assisting any native of India to emigrate under Chapter V :
- (b) “Assistant Inspector” means an Assistant Inspector of Labourers appointed under this Act :
- (c) “contractor” means a contractor licensed under this Act :
- (d) “dependant” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-*sardar*, or accompanying any emigrant with the consent of an agent :
- (e) “emigrate” denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant :
- (f) “employer” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed :
- (g) “estate” means the land upon which any labourers or more than fifty other persons have been engaged to labour :
- (h) “garden-*sardar*” means a person employed on an estate and deputed by his employer to engage labourers :
- (i) “Inspector” means an Inspector of Labourers appointed under this Act :
- (j) “labour-contract” means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant :
- (k) “labour-district” means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam :
- (l) “labourer” means any person bound by a labour-contract, and includes any person registered as such under section 34 or section 69 :

of 1901.]

(Chapter I.—Preliminary.—Secs. 3, 4.)

- (m) "local agent" means a local agent licensed under this Act:
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed¹ by the Local Government to perform the functions of a Magistrate under this Act:
- (o) "recruiter" means a recruiter licensed under this Act:
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district:
- (q) "Registering officer" means a Registering-officer appointed under this Act:
- (r) "sign" and "signature" include, in the case of persons unable to write, finger impressions:
- (s) "sub-contractor" means a sub-contractor licensed under this Act: and
- (t) "Superintendent" means a Superintendent of Emigration appointed under this Act.

(2) All words defined in the Indian Contract Act, 1872², and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act.

3. The Local Government may, with the previous sanction of the Governor-General in Council, by notification³ in the local official Gazette, prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification:

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

4. (1) The Local Government may appoint⁴ so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act, respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area

¹ For an order made under section 2 (n) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² Printed in General Acts, 1868-78, Ed. 1900, p. 273.

³ For a list of notifications issued under section 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

⁴ For orders made under section 4 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

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(Chapter II.—Labour-contracts Generally.—Sec. 5.)

situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code¹. 45 of 1860

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

Essentials of
labour-
contracts.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman :

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman : and

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman :

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task :

of 1901.]

(Chapter II.—Labour-contracts Generally.—Secs. 6-10.)

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

Contracts not enforceable as labour-contracts unless made in accordance with section 5.

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines.

In absence of specific obligation, underground labour not obligatory.

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract :

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

9. Notwithstanding anything to the contrary in the Indian Contract Act, 1872¹, any person of the age of sixteen years or upwards may enter into a labour contract.

Persons who may enter into labour-contracts.

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

10. (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

Power of Local Government to cancel contract in case of wrongful recruitment.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

9 of 1872.

¹ Printed in General Acts, 1868-78, Ed. 1909, p.

(Chapter II.—Labour-contracts Generally.—Secs. 11-13.)

Power to
cancel
contract of
labourer
related to
labourer
whose
contract is
cancelled

11. Where the labour contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer, whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Repatriation
of labourers
whose
contracts are
cancelled.

12. (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely :—

- (a) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter III, from the contractor at whose depôt the labourer executed his labour-contract;
- (b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer; and,
- (c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, or, if the labourer has been recruited under Chapter III, either from such employer or from the contractor at whose depôt the labourer executed the labour-contract, as to the Inspector or Magistrate may seem expedient.

(2) In the case of a labourer recruited under Chapter III, when the whole or any part of such expenses have been recovered from the employer, the employer shall be entitled to recover the same from the contractor at whose depôt the labourer executed the labour-contract.

(3) A certified copy of the order in writing of the Local Government under section 10 or section 11 and the receipt granted to the employer for such expenses shall be conclusive evidence of the title of the employer to recover such expenses from the contractor.

Escort for
repatriated
labourer.

13. (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

of 1901.]

(Chapter III.—*Recruitment by Contractors, Sub-contractors and Recruiters.*—Secs. 14-17.)

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

CHAPTER III.

RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

Contractors and Sub-Contractors.

14. Any Superintendent specially empowered¹ in this behalf by the Local Government may grant, to persons fitted by character to act as contractors, licenses to be contractors within the whole or any part of the local area for which the Superintendent has been appointed; and may also, on the application of any contractor, grant, to persons fitted by character to act as sub-contractors, licenses to be sub-contractors, on behalf of the contractor, within the whole or any part of the local area for which the contractor is licensed.

Licensing of contractors and sub-contractors

15. Every license granted under section 14 shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees and, in the case of a sub-contractor, fifty rupees as the Local Government may, by rule, prescribe.

Fee for, and form of, contractors' and sub-contractors' licenses.

16. (1) No license shall be granted under section 14 for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

Duration of contractors' and sub-contractors' licenses and cancellation thereof.

(2) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

17. Every contractor shall, in addition to the special duties imposed upon him by this Act, afford such information to the Superintendent and furnish him with such returns and reports as the Superintendent may, subject to any rules made by the Local Government in this behalf, require.

Duties of contractors.

¹ For an order made under section 14 for Bengal as constituted on the 31st March, 1911, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter III.—*Recruitment by Contractors, Sub-Contractors and Recruiters.*—Secs. 18-23.)

18. No sub-contractor shall be licensed to act on behalf of more than one contractor.

Sub-contractor to act on behalf of only one contractor.

Contractor or sub-contractor acting as recruiter.

Liability of contractors for sub-contractors' and recruiters' acts and defaults.

19. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions of this Act relating to recruiters.

20. (1) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be a sub-contractor or recruiter on his behalf, and all payments which, under this Act or any rule thereunder, any person so licensed is required to make, may, in case of default, be recovered from the contractor concerned.

(2) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf of the contractor is liable to be cancelled under this Act.

(3) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person so licensed on his behalf.

Contractor to establish depôts.

21. Every contractor shall establish and maintain, at such places and for such local areas as the Local Government may direct¹, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for any labourers so engaged during their stay at the depôts.

Inspection and supervision of depôts.

22. (1) No depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

(2) Every depôt shall be under the supervision of the Superintendent, the Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate or such officer as aforesaid, and the Medical Inspector.

(3) Where the Superintendent considers that any depôt is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of the depôt for the reception and lodging of labourers.

Establishment of hospital-depôts.

23. In addition to the depôts hereinbefore provided for, the Local Government may establish separate hospital-depôts for the reception of labourers suffering from dangerously infectious or contagious diseases.

¹ For an order made under section 21 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1901.]

(Chapter III.—Recruitment by Contractors, Sub-Contractors and Recruiters.—Secs. 24-29.)

24. (1) Where a hospital-depôt is established under section 23, the Local Government may require any contractor having a depôt in the neighbourhood of the hospital-depôt to contribute to the expense of the establishment and maintenance of the hospital-depôt such reasonable sum as it may direct, and may recover the same from the contractor.

Contractor to contribute towards establishment and maintenance of hospital-depôt.

(2) Every hospital-depôt established under section 23 shall be under the charge of a medical officer appointed by the Local Government.

(3) Any Medical Inspector may direct the transfer of any labourer from a depôt established within the local limits of his jurisdiction to a hospital-depôt established under section 23 within the said local limits.

Recruiters.

25. Any Superintendent empowered¹ in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting on behalf of a contractor, grant, to persons fitted by character to be employed in engaging labourers, licenses to be recruiters on behalf of the contractor within the whole or any specified part of the local area for which the contractor has been licensed :

Licensing of recruiters

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

26. Every license granted under section 25 shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe.

Form of, and fee for, recruiter's license.

27. No license shall be granted under section 25 for a longer period than one year from the date thereof; and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

Duration of recruiter's license.

28. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

Recruiter to hold certificate from contractor or sub-contractor. Magistrate's counter-signature of recruiter's license.

29. (1) No recruiter shall engage or attempt to engage any person as a labourer unless his license bears the counter-signature of a Magistrate having jurisdiction in the district or sub-division for which he is licensed.

¹ For an order made under section 25 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter III.—Recruitment by Contractors, Sub-contractors and Recruiters.—Secs. 30-32.)

(2) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate prescribed by section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a dépôt.

Magistrate to supervise accommodation.

30. (1) Every Magistrate shall have, for the supervision, inspection and regulation of any place within the local limits of his jurisdiction in which accommodation is provided under section 29, sub-section (2), the same powers as are by this Act conferred on the Superintendent in respect of dépôts.

(2) The District or any Sub-divisional Magistrate may authorize any Magistrate subordinate to him or any officer of police above the rank of Sub-Inspector, to visit and inspect such places as aforesaid at any time; and all recruiters or other persons in charge of such places as aforesaid shall afford to subordinate Magistrates and officers of police so authorized every facility for visiting and inspecting them.

Cancellation of Magistrate's counter-signature in certain cases.

31. (1) Where any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section 29, sub-section (2), has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his counter-signature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

(2) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report his refusal or cancellation and the grounds thereof to the Superintendent who granted the license.

Procedure before arrival at Dépôts.

Intending labourer to be taken for examination to medical officer.

32. (1) Every recruiter who desires to engage any person as a labourer shall appear with the person before such medical officer as the Local Government may appoint¹ in this behalf within the local limits of the jurisdiction of the Magistrate by whom the recruiter's license was countersigned, or, if no medical officer has been so appointed, before such medical officer as the Registering-officer before whom the person is taken for registration as hereinafter provided may direct.

¹ For an order made under section 32 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1901.]

(Chapter III.—Recruitment by Contractors, Sub-contractors
and Recruiters.—Secs. 33, 34.)

(2) The medical officer shall thereupon examine the person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, give him a certificate to that effect.

33. Every person who obtains a certificate under section 32, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which the recruiter is licensed, or before such other Registering-officer as the Local Government may appoint¹ for that local area.

If certified to be fit, intending labourer to be brought before Registering-officer

The recruiter shall, at the same time, produce and show his license to the Registering-officer.

34. (1) The Registering-officer shall thereupon inspect the certificate given under section 32 and the license of the recruiter, and, if he finds that the certificate has been duly given and that the recruiter is duly licensed, shall then examine the person brought before him under section 33 with reference to his intended labour-contract, and explain the same to him.

Examination and registration of intending labourer

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract, and understands the same as regards the locality, the period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(3) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall, after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract, and such

¹ For an order made under section 33 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter III.—Recruitment by Contractors, Sub-Contractors and Recruiters.—Secs. 35-40.)

record shall also be subscribed by the husband or lawful guardian with his signature.

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living, the Registering-officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be, and shall record such evidence in writing under his own signature.

Arrange-
ments to be
made for
return to
home of in-
tending
labourer
whose
registration
is refused.

35. (1) Where the Registering-officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Sub-divisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval. In the case of any male under the age of sixteen years or any female recruited in circumstances which appear to be suspicious, the arrangements may include the provision of an escort home.

(2) Any expenditure incurred under sub-section (1) may be recovered from the contractor or recruiter concerned, or both.

Copy of
registration
to be given
to labourer.

36. The Registering-officer shall furnish to every person registered under section 34, sub-section (2), a certified copy written on substantial paper of the particulars referred to therein.

Copy of
registration
and medical
certificate to
be sent to
Superinten-
dent.

37. Every Registering-officer registering a person under section 34, sub-section (2), shall forthwith forward a certified copy of the particulars referred to therein and the original certificate of the medical officer regarding the person to the Superintendent having jurisdiction over the dépôt to which the person is to proceed.

Fee for re-
gistration.

38. For every person produced before a Registering-officer for the purpose of being registered under section 34, sub-section (2), the recruiter shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may, by rule, prescribe.

Recruiter
when to
remove
person
to dépôt.

39. No recruiter shall remove or attempt to remove any person to a dépôt, or induce or attempt to induce him to go to a dépôt, or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aid or attempt to aid him in going to a dépôt, or leaving any such local limits as aforesaid, unless and until he has been registered under section 34, sub-section (2).

Conveyance
of labourer
to dépôt.

40. (1) After a labourer has been registered under section 34, sub-section (2), the Registering-officer shall direct the recruiter to convey the labourer with all convenient despatch to a dépôt established by the contractor on whose behalf the

of 1901.]

(Chapter III.—*Recruitment by Contractors, Sub-Contractors and Recruiters.*—Secs. 41-44.)

recruiter has been licensed, and shall specify the depôt to which the labourer is to be conveyed.

(2) Every labourer shall, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself or by a competent person deputed by him with the approval of the Registering-officer by whom the labourer has been registered.

(3) The Registering-officer shall give to every person so deputed a certificate under his signature, stating that he has been deputed for the journey to the depôt.

41. Every recruiter or person deputed by him under section 40, sub-section (2), shall, throughout the journey to the depôt, provide the labourer and his dependants (if any) with proper and sufficient food and lodging.

Recruiter to provide food and lodging for labourer on journey

Procedure at Contractors' Dépôts.

42. Within twenty-four hours after the arrival of a labourer at a depôt, the contractor by whom the depôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction the depôt is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of the arrival of the labourer.

Contractor to report arrival of labourer

43. (1) The Medical Inspector shall, as soon as may be after the arrival of a labourer at a depôt, examine the labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts.

Duties of Medical Inspector

(2) The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied that the labourer and his dependants (if any) are in a fit state of health to undertake the journey, and, in the case of the labourer, that he is also not incapacitated as aforesaid.

44. Where the Medical Inspector gives a certificate under section 43, sub-section (2), with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why the labourer should not enter into the intended labour-contract, the labourer and the employer with whom he intends to contract, or the person appearing on behalf of the employer, shall, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the depôt, execute the labour-contract in the presence of the Superintendent:

On grant of certificate, labourer to enter into labour-contract.

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was registered

*(Chapter III.—Recruitment by Contractors, Sub-Contractors
and Recruiters.—Secs. 45-48.)*

under section 34, sub-section (2), or at such other place within the Province as the Local Government may direct.¹

Contract to be explained to labourer by Superintendent, and abstract and copies to be made.

45. (1) Before any labourer executes a labour-contract, under section 44, the Superintendent shall personally explain it to him, and shall, after the same has been executed by him and by his employer or the person appearing on behalf of his employer attest the labour-contract and certify at the foot thereof that he has personally explained the same to the labourer.

(2) An abstract of every labour-contract so executed shall be entered in a register to be kept by the Superintendent for the purpose; and, after the abstract has been so entered, one copy of the labour-contract shall be given to the labourer and the other to his employer or the agent of his employer.

Power for employer to require further medical certificate as to fitness to labour previous to contract

46. Where the employer with whom any labourer intends to contract, or a person appearing on behalf of the employer, has given notice to the Superintendent that, before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a medical man selected by such employer or person appearing on behalf of the employer and shall be certified by him to be physically and constitutionally fit for labour in the labour-district in which the estate of the employer is situate, the Superintendent shall not permit the labourer to execute a labour-contract, until such medical certificate as aforesaid has been produced and shown to him.

Fee of medical officer when in Government service for examination under section 46.

47. Where the employer or the person appearing on his behalf has directed that the examination referred to in section 46 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the employer or such person such fees as may be agreed upon, or, if no agreement has been entered into, then such fee for each labourer so examined as the Local Government, by general or special order, may direct.

Power to cancel contract and order payment of expense of return of labourer in certain cases.

48. In any of the following cases, namely :—

- (a) where the Medical Inspector, on making the examination required by section 43, sub-section (1), or at any subsequent time during the stay at the dépôt of a labourer, finds that the labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, or that the labourer is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, and the Superintendent considers that the labourer has not dishonestly represented himself as fit to undertake the journey; or

¹ For an order made under section 44 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1901.]

(Chapter III.—*Recruitment by Contractors, Sub-Contractors and Recruiters.*—Secs. 49, 50.)

(b) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of a labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind a labour-contract which has been executed; or

where the contractor on whose behalf or by whom a labourer has been registered does not, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the depôt, tender to him a labour-contract for execution under section 44, or the employer or the person appearing on his behalf refuses or neglects to execute the contract as required by that section;

the Superintendent may cancel the labour-contract executed by the labourer, and in that event, or if no labour-contract has been executed, may order the contractor at once to pay the labourer such reasonable sum as the Superintendent may think necessary to enable the labourer to return to the place at which he was registered or to his native district, as to the Superintendent may seem fit, and such further sum by way of compensation as the Superintendent thinks reasonable; and may take such other steps as he may think necessary for the conveyance of the labourer to such place or district as aforesaid.

49. (1) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depôt at the expense of the contractor by whom the depôt is maintained, until he is reported by the Medical Inspector to be fit to undertake the return journey.

Labourer when to be lodged, etc., at depôt till he can return home.

(2) Where the contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for the labourer, the Superintendent may order the contractor at once to pay such reasonable sum as the Superintendent may think necessary to provide such food, lodging, clothing or medical treatment as aforesaid.

50. Where an order is made under section 48 with reference to a labourer, any person registered as his dependant, or any other labourer, being his or her wife, husband, son or daughter, may claim—

Like provisions in case of dependants and relatives.

(a) to be conveyed, at the expense of the contractor, with the labourer to the same place as the labourer; and

(b) if the labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depôt at the expense of the contractor until the labourer is able to travel;

*(Chapter 11I.—Recruitment by Contractors, Sub-Contractors
and Recruiters.—Secs. 51-55.)*

and the Superintendent may include such expenses as aforesaid in an order made under section 48 or section 49 with respect to the labourer.

Compensation to labourer for ill-treatment on the journey.

51. Where, upon the arrival of a labourer at a depôt, it appears that during the journey to the depôt, the labourer or any person registered as his dependant has suffered ill-treatment at the hands of the recruiter or person deputed by the recruiter to accompany the labourer, or that the recruiter or such person as aforesaid has failed to provide the labourer, or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom the depôt is maintained to pay the labourer a reasonable sum by way of compensation.

Procedure when dependant declared unfit to proceed to labour-district.

52. Where the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of the labourer was given. The provisions of sections 48 and 49 shall thereupon apply to the dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Labourer and relatives entitled to be returned with dependant.

53. In any such case as is provided for by section 52, the labourer to whom the dependant is attached shall further be entitled, if he or she so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to receive from the contractor at whose depôt he or she arrived, such reasonable sum as the Superintendent may think necessary to enable him or her to return to the place where he or she was registered, or to his or her native district, as to the Superintendent may seem fit. If the labourer so returns, then any other persons registered as his or her dependants, and any other labourer, being his or her wife, husband, son or daughter, shall also be entitled to receive a like sum from the contractor.

Failure of contractor to pay sums ordered to be paid under sections 48 to 53.

54. On the failure of a contractor for the space of twenty-four hours to comply with an order of the Superintendent to pay any sum required to be paid under section 48, section 49, section 50, section 51, section 52 or section 53, the Superintendent may pay the same to or on behalf of the labourer or dependant concerned, and may recover it from the contractor.

Provisions as to escort on journey and way-bill.

55. (1) All labourers despatched from a contractor's depôt to a labour-district shall during their journey to the place where they are to labour be accompanied by a person appointed by the contractor, and no person shall be so appointed unless he holds a certificate of fitness signed by the Superintendent, who may cancel such certificate for any reason which seems to him sufficient.

of 1901.]

Chapter IV.—Recruitment by Garden-sardars and Local Agents.—Secs. 56-59.)

(2) Every person appointed under sub-section (1) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe; he shall present the way-bill at all such places and to all such officers as may be thereupon indicated; and he shall carry out all instructions therein contained for his guidance.

CHAPTER IV.

RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS. *Garden-sardars.*

56. (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

Employer may grant certificate to garden-sardar.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

57. (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

Form and particulars to be contained in such certificate.

(2) Any employer granting a certificate to a garden-sardar under section 56, sub-section (1), may, before the certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit.

58. Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

59. The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge, or is, by character or from any other

Inspector's or Magistrate's counter-signature of certificate.

(Chapter IV.—Recruitment by Garden-sardars and Local Agents.—Secs. 60-63.)

cause, unfitted to be a garden-sardar, countersign and date the certificate.

Provision for
grant of
fresh
certificate

60. (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

(2) Every fresh certificate granted under sub-section (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the District in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

Certificate
when to come
into
force, and
duration
thereof

61. No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Accommoda-
tion to be
provided by
garden-sardar.

62. (1) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

(2) The District or Sub-divisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Sub-divisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Cancellation
of certificate
in certain
cases:

63. (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

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Local Agents.—Secs. 64-66.)

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

Local Agent.

64. (1) Any Superintendent authorized¹ in this behalf by the Local Government may, on the application of one or more employers, grant licenses to suitable persons to be local agents for the purpose of representing employers in all matters connected with the supervision of garden-sardars under this Chapter or section 90 or section 91 within such local area and for such period as the employer or employers so applying may desire:

Licensing
and duties of
local agents.

Provided that no contractor and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a local agent.

(2) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe.

65. Any Superintendent authorized² in this behalf by the Local Government may, on the application of one or more employers, grant licenses, for such period as the employer or employers may desire, to suitable persons to be selecting agents, for the selection, on behalf of the employer or employers, of labourers recruited by contractors, and such selecting agents shall furnish such information and make such returns as the Local Government may by rule prescribe:

Selecting
agent

Provided that no contractor or local agent and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a selecting agent:

Provided also that no such license shall be granted for more than one year from the date thereof:

Provided also that a license granted under this section may be cancelled by the Superintendent for any reason which seems to him sufficient.

66. Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of

Prosecution of
garden-sardars
by local
agents

¹ For an order made under section 64 (1) for Bengal as constituted on the 31st March, 1912, see, the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

² For an order made under section 65 for Bengal as constituted on the 31st March, 1912, see, the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter IV.—Recruitment by Garden-sardars and Local Agents—Secs. 67-69.)

the employer may prosecute the garden-sardar for that offence.

Cancellation
of licenses of
local agents

67. (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if the employer so requires, or if it is shown to the satisfaction of the District Magistrate that the local agent has—

- (a) employed any contractor's recruiter to recruit or engage on his behalf persons to be labourers; or
- (b) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the person engaged as labourers by any garden-sardar under the local agent's control; or
- (c) allowed any garden-sardar under his control to transfer persons engaged as labourers by the garden-sardar to contractors or to their recruiters or to any employer other than the employer by whom the garden-sardar's certificate was granted; or
- (d) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom the garden-sardar's certificate was granted.

(2) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Procedure to be followed by Garden-sardars.

Garden-
sardar and
labourer to
appear before
Registering-
officer for
registration.

68. Every garden-sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint¹ for that local area.

Examination
and registra-
tion of per-
sons engaged
by garden-
sardar.

69. (1) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as

¹ For an order made under section 68 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. LV

of 1901.]

(Chapter IV.—Recruitment by Garden-sardars and Local Agent.—Secs. 70-72.)

regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

70. (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

Medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Fee to be paid for every labourer produced for registration.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

Labourer-contract to be executed.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the

(Chapter IV—Recruitment by Garden-sardars and Local Agents.—Secs. 73–76.)

purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

Procedure when employer requires medical examination previous to registration

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

Fee of medical officer when in Government service for examination under section 73.

74. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Garden-sardar when to remove labourer to labour-district

75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72 no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar to accompany labourers or send competent person with them.

76. (1) A garden-sardar shall either himself accompany labourers engaged by him throughout the journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one

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(Chapter IV.—Recruitment by Garden-sardars and Local Agents—Secs. 77-82.)

additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

No restriction on number of persons engaged by garden-sardar

78. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him

79. (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

Provision for way-bill

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

80. Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sardar to provide food and lodging for labourers and dependants on journey

81. Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer, or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit.

Power for Magistrate in certain cases to award compensation or cancel contract.

82. On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer

Procedure on failure of garden-sardar to comply with order

(Chapter IV—Recruitment by Garden-sardars and Local Agents.—Secs. 83-85.)

concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Medical
inspection of
labourers en
route

83. Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

Detention
and return of
labourer
declared when
en route to be
unfit to
travel.

84. (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden-sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden-sardar was granted, or his local agent, so wishes, be forwarded to the labour-district, or, if otherwise, to his native district or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit.

(3) While any labourer or dependant is detained under sub-section (1), he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

Dependants
of labourer
when to be
fed, etc.

85. (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled,—

- (a) until the labourer is in a fit state of health to undertake the journey to be fed, lodged, clothed, and (if necessary) medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour; and
- (b) to be sent back to the same place (if any) as the labourer.

(2) Where an order has been made under sub-section (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon, until the dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she

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(Chapter IV.—*Recruitment by Garden-sardars and Local Agents.*—Secs. 86, 87.)

is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and at the cost of the employer with whom the labourer has contracted to labour; and the labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant.

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be,—

(a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and, at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or

(b) to be sent back to the same place as the labourer.

86. Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Payment of expenses of detention and return-journey of labourer

87. (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour-contract.

Representative of employer may procure order from Superintendent cancelling the labour-contract on payment of expense of return.

(2) If, when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the

(Chapter IV.—Recruitment by Garden-sardars and Local Agents Chapter V.—Engagement of Emigrants otherwise than under Chapters III and IV.—Secs. 88, 89.)

labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract, and attest the endorsement with his signature.

Cancellation
of contracts
of relatives

88. (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

(2) Where a claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

Cost of
escort for
repatriated
labourer

89. When an order is made under sections 81, 86 or 88 for payment of the costs of the return journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV.

Special pro-
visions as
to engage-
ment of
emigrants
through
garden-
sardars.

90. When a notification has been published under section 3, prohibiting the recruiting, engaging, inducing or assisting, natives of India, or any specified class of natives of India, to emigrate from the whole or any specified part of a Province to any labour-district or any specified portion of a labour-district otherwise than in accordance with the provisions of this Act, therein specified, the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that specially employed

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(Chapter V.—Engagement of Emigrants otherwise than under Chapters III and IV.—Sec. 90.)

garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may, in the part of the province specified in the notification under section 3, engage persons on behalf of their employers and assist persons so engaged to emigrate to such labour-district or specified portion of a labour-district subject to the following provisions, namely:—

- (a) The employer shall grant each garden-sardar specially employed by him under this section a permit in writing, in such form as the Chief Commissioner of Assam may by rule prescribe, signed and dated, specifying the name of the garden-sardar and the recruiting district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate:
Provided that no such permit shall be granted to a garden-sardar who has not resided at least six months on the estate of the employer.
- (b) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.
- (c) Every permit shall be presented by the garden-sardar named therein in person for countersignature to the Inspector or to the Magistrate having jurisdiction in the place where the garden-sardar resides, and shall not be valid or have effect unless and until it is so countersigned.
- (d) The Inspector or Magistrate may refuse to countersign any permit, for any reasons, to be recorded in writing, which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is employed on the estate of his employer and has resided at least six months on the estate and is a fit person to engage persons and assist them to emigrate.
- (e) When a permit is duly countersigned, the garden-sardar named therein may proceed to the recruiting district and there himself engage persons on behalf of his employer and assist them to emigrate, subject to the provisions of this Chapter.
- (f) Every garden-sardar so authorized shall on arrival in the recruiting district and before he engages any person to emigrate, in person or in writing, report his arrival, and the place at which he intends principally to reside, to the District or Sub-divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in

(Chapter V.—Engagement of Emigrants otherwise than under Chapters III and IV.—Secs. 91, 92).

such form as the Local Government may prescribe, containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate.

- (g) Every garden-sardar shall either himself accompany all persons so engaged by him to the labour-district in which the estate of his employer is situate, or send them there in charge of another garden-sardar holding a permit under this section from the same employer to engage persons in the same recruiting district.
- (h) No permit shall have effect for more than six months from the date of countersignature by the Inspector or Magistrate as aforesaid.
- (i) Any permit granted under this section may be cancelled in the recruiting district by the District Magistrate for any reason, to be recorded in writing, which he may think sufficient. The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect. A District Magistrate who cancels a permit under this clause shall give notice of such cancellation to the employer by whom it was signed and to the Inspector or Magistrate by whom it was countersigned.

Power to Local Government to relax certain provisions of Act

¹91. Notwithstanding anything contained in section 90, the Local Government may, by notification ² in the local official Gazette, declare that—

- (a) in the case of contractors, sub-contractors and recruiters holding licenses granted under Chapter III, any of the requirements of that Chapter, or,
- (b) in the case of garden-sardars holding certificates granted under Chapter IV or holding permits granted and countersigned under section 90, any of the requirements of that Chapter or of that section, as the case may be,

may be dispensed with or relaxed on such conditions as may be prescribed in the notification.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapters III and IV, and of sections 90 and 91.

¹ This section was substituted for the original section 91 by the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), s. 2, *post*, p. 759.

² For a list of notifications issued under section 91 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

of 1901.]

*(Chapter V.—Engagement of Emigrants otherwise than
under Chapters III and IV.—Sec. 93.)*

93. (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely :—

Application
of Act to
persons
engaged
under this
Chapter

(a) in CHAPTER VI (TRANSPORT) :—

- (i) sections 94 and 95 (routes and transport by sea) ;
- (ii) sections 96 to 99 (passenger licenses) ;
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master) ;
- (iv) section 103 (medical officer) ;
- (v) section 104 (delay in departure) ;
- (vi) sections 107 to 110 (Magistrates' powers) ;
- (vii) section 112 (disinfection) ;
- (viii) section 113 (excess passengers) ;
- (ix) section 114 (breaches of Act and rules) ; and
- (x) section 116 (delegation of magisterial powers) ;

(b) in CHAPTER VII (LABOUR-DISTRICTS) :—

- (i) section 122 (registers and returns) ;
- (ii) section 123 (inspection) ; and
- (iii) sections 159, 161 and 162 (repatriation) ;

(c) in CHAPTER VIII (RULES) :—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants ;

(d) in CHAPTER IX (PENALTIES AND PROCEDURE) :—

- (i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river) ; and
- (ii) sections 185 and 186 (offences by employers) ; and

(e) in CHAPTER X (MISCELLANEOUS) :—

- (i) section 215 (recovery of sums due) ; and
- (ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications and repeal).

(2) Except as indicated in sub-section (1), nothing in Chapters II to IV inclusive or in Chapters VI to X inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

(Chapter VI.—Transport—Secs. 94-99.)

CHAPTER VI.

TRANSPORT.

Routes, etc.

Routes to be followed and rules observed

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

Transport by River.

Transport by sea to labour-districts
Vessels to carry more than twenty passengers to be ordinarily licensed

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

96. (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application for license.

97. (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

Grant of license.

98. Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Fee for license.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage:

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on

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(Chapter VI.—Transport.—Secs. 100-105.)

payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing, that on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

Embarkation Agent may limit number to be received on board on any particular voyage

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

101. Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

Master to make returns

102. Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

Provisions, clothing, medical and other officers, cooks, etc

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition.

Medical officer to be licensed

Departure of Passenger-vessels and procedure during voyage.

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Embarkation Agent may order departure of vessel if delay occurs.

105. (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

Master to receive way-bills from Embarkation Agent.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(3) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (1) to the Magistrate of the labour-district to which such labourers are proceeding.

(Chapter VI.—Transport.—Secs. 106-110.)

Labourers
not finally
to leave
vessel at any
place other
than that
mentioned
in way-bill

106. No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer :

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity :

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen.

Master to
stop his
vessel at
certain places
where there
is a Magis-
trate

107. (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

Power for
Magistrates
to inspect
vessels

108. (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers.

Power for
Magistrates
to regulate
communica-
tion between
vessels and
land.

109. Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for
Magistrates
to detain
vessels for
inspection
and to detain
native
passengers.

110. (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such

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(Chapter VI.—Transport.—Secs. 111-114.)

passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained for medical treatment.

111. (1) Where, on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour-district in which the labourer has contracted to labour, he may order the labourer or dependant to be detained, and shall cause all necessary arrangements to be made for his accommodation, support and medical treatment.

Detention of
sick labourers
by Magistrate.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

112. (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

Power for
Magistrate to
detain vessel
to be cleansed
and disin-
fected

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

113. (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

Measures to
be taken if
excess number
of native
passengers is
found on
board

(2) Any expenditure incurred in maintaining passengers detained under sub-section (1) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

114. Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Infraction of
the Act and
rules to be
reported.

(Chapter VI.—Transport.—Chapter VII.—Provisions as to the Labour districts.—Secs. 115—118.)

Power to make rules regulating disembarkation and other matters

115. (1) The Local Government may make rules to regulate—

- (a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;
- (b) the detention of labourers and their dependants at debarkation depôts;
- (c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(2) Any expenditure incurred in pursuance of any rules made under sub-section (1) may be recovered from the employers of the labourers concerned.

Deputation of other officer to discharge the functions of Magistrate under sections 107 to 114

116. The District and Sub-divisional Magistrate may authorize any subordinate Magistrate, medical officer, or officer of police above the rank of sub-inspector, to exercise the powers and authorities conferred and to perform the duties imposed on a Magistrate under sections 107 to 114.

CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

Annual Rate payable by Employers.

Annual rate payable by employer.

117. (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under sub-section (1), the same may be recovered from him.

Local Labour contracts.

Labour contracts executed in labour-districts between employer and native direct

118. (1) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of the execution of the labour-contract, with any native of India within the labour district in which the estate to which the labour-contract refers is situate.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract,

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*(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 119-121.)*

forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

119. When, for the first time after the registration, under section 118, sub-section (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Verification and cancellation of such contracts

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

121. (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated.

Labour-contracts executed within labour-district before Inspector or Magistrate.

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under his section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the

(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 122-124.)

labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

Employers' Returns and Magistrates' Inspections.

Registers to be kept and returns made by employers

122. (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries

123. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes of individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability.

Regulation of Labour.

Schedule of daily tasks to be prepared.

124. (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

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(Chapter VII.—Provisions as to the Labour-districts.—Secs. 125-127).

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

125. (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day. Limitation on tasks and payment of wages

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

126. (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks. Provisions for revision of schedule by Inspector subject to appeal to Committee.

(2) The employer shall at once make the reduction so ordered, but may if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

- (a) the Inspector,
- (b) some person to be nominated by the employer whose schedule is to be inquired into, and,
- (c) if practicable, a medical officer.

(4) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

127. (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit. Committee to revise schedule.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 128-130.)

Provision
for weakly
labourers

128. (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna-and-a-half *per diem*, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna-and-a-half *per diem*, or diet on a scale to be approved by the Inspector.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

Incapacity for Labour.

Inspector
may suspend
contract of
any labourer
temporarily
unfitted for
labour.

129. (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

Labourer
absent from
sickness.

130. (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one anna-and-a-half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract; unless the labourer refunds to the employer the sum of one anna-and-a-half for each day so in excess.

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof:

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement

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*(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 131-134.)*

in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

131. (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

Discharge of
labourer
permanently
incapacitated.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

Accommodation for Labourers.

132. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

House-ac-
commodation,
water-supply
and sanitary
arrangements
for labourers.
Supply of
food-grain
for labourers.

133. (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price.

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district, or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

134. (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing,—

Provisions
for
rationing.

- (a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order;
- (b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;
- (c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

*(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 135-137.)*

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

Provision
for hospital-
accommoda-
tion and
medical
attendance.

135. Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available, to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit.

Inquiry
whether
employer
has failed to
provide
accommoda-
tion, etc.,
as required
by the
rules

136. (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133.

(2) At the instance of any Inspector, or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an inquiry by a Magistrate under the Code of Criminal Procedure, 1898.¹ 5 of 18

Localities unfit for the Residence of Labourers.

Report by
Inspector and
inquiry by
Committee

137. (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

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*(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 138-140.)*

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate;
- (b) the Inspector;
- (c) the civil medical officer of the district; and
- (d) one or more employers of labourers;

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

138. Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

Inquiry by
Committee
by order of
Local
Government.

- (a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or
- (b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

139. Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

Proceedings
of Com-
mittee

140. (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect.

Finding of
Committee
and conse-
quences.

(2) Where a finding has been recorded under sub-section (1), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate,

*(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 141, 142.)*

he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, or any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer certificate to that like effect.

Power for
Local Gov-
ernment to
pass orders
on proceed-
ings of Com-
mittees.

141. The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140.

* Excessive
mortality on
estates.

142. Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years as the case may be, than seven per cent., the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely :—

- (a) the cause or causes of the mortality;
- (b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers:

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate, may direct an inquiry under this section limited to that particular class of labourers.

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(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 143-146.)

143. The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector may place before him and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

Medical
officer
to report.

144. Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

Power for
Local
Government
to declare
estate
unfit for
residence

145. (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

Power for
Inspector to
certify fitness
of estate or
portion found
or declared
to be unfit

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

Complaints made by Labourers.

146. Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer, of such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate :

Labourer
wishing to
complain of
personal
ill-usage or
breach of
Act to be
sent by
employer to
Inspector or
Magistrate

(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 147-149.)

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

Inspector or
Magistrate
how to
proceed in
case of
complaint

147. (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

Untrue or
frivolous
complaints

148. (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complaint contracted to labour.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

A ward of
compensation
to employer.

149. (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until

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(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 150-152.)

he has worked off the amount at the rate of one day's labour for each four annas of the same.

150. (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

Complaints disclosing grounds for further proceedings.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

151. (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

Recovery of arrears of wages and compensation.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

152. (1) Where it is proved to the satisfaction of a Magistrate—

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

- (a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the Code of Criminal Procedure, 1898¹, triable exclusively by the Court of Session; or
- (b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid as against the labourer and under the said Code triable by a Magistrate; or
- (c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or
- (d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit, for it, or has been subjected to ill-usage by his employer or any such person as aforesaid;

(Chapter VII.—Provisions as to the Labour-districts.—Secs.
153-156.)

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

Power to
Local Gov-
ernment to
cancel con-
tracts of
labourers,
whose
condition is
unsatisfactory
owing to
insufficiency
of earnings.

153. (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

Power to
cancel
contract of
labourer
related to
labourer
whose
contract is
cancelled or
determined

154. Where the labour-contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may in his discretion and on the application of the labourer concerned cancel the labourer-contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

Determination of Labour-contracts.

Endorsement
of determina-
tion on
labour-
contract.

155. Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect: and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.

Power to
redeem
labour-
contract.

156. (1) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and on his depositing such sum as aforesaid with the Inspector, the Inspector shall

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(Chapter VII.—Provisions as to the Labour-districts.—
Secs. 157, 158.)

give notice to the employer to show cause within one week why the labourer should not be released from his contract.

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

157. (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last in such proportions as may appear to him to be equitable.

Power to equalize terms of contract in case of husband and wife.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

Repatriation of Labourers and Others.

158. (1) Where any labourer, not being a native of the labour-districts whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to

Repatriation of labourer whose contract has determined under section 131.

(Chapter VII.—Provisions as to the Labour-districts.—Secs. 159-161.)

cover the entire expenses of sending the labourer back to his native district. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order and may recover the same from the employer or the labourer concerned.

Repatriation
of persons
emigrating
not under
labour-con-
tract who are
physically
incapacitated

159. Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any) to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218¹.

Repatriation
of labourers
wrongfully
recruited

160. (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

Repatriation
of persons
not under
labour-con-
tract wrong-
fully re-
cruited.

161. (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

¹ The new section 218, post p. 716, does not constitute a Labour Transport Fund.

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(*Chapter VII.—Provisions as to the Labour-districts.—*
Chapter VIII.—Rules.—Secs. 162, 163.)

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him, if he so desires, together with any other persons dependant on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

162. (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

Arrangement
may be made
for escorting
persons
ordered to be
repatriated.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

CHAPTER VIII.

RULES.

163. (1) In addition to the powers hereinbefore conferred the Local Government may make rules¹ to carry out any of the purposes and objects of this Act in the Province.

General
power for the
Local
Government
to make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) define and regulate the powers and duties of the several officers appointed by it under this Act;
- (b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any contractors or local agents within the Province and the form in which they shall be respectively so made;

¹ For rules made under section 163 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

(Chapter VIII.—Rules.—Sec. 163.)

- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province;
- (d) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province;
- (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant;
- (f) provide for the management and regulation of contractors' depôts and of hospital depôts situate within the Province, and for the support and medical treatment of labourers and their dependants passing through such depôts;
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province;
- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels;
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be ~~taken~~ on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to such labourer and dependant during the journey through the same; prescribe the number of officers, cooks and other servants to be carried on board such vessels; and provide generally for the accommodation of labourers and their dependants on such vessels;
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels while in transit through the Province;
- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants ~~shall travel~~ to the labour-districts;
- (l) prescribe ~~the~~ clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province;

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(Chapter VIII.—Rules.—Sec. 163.)

- (m) require depôts and rest-houses to be provided by and at the cost of employers, contractors or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses;
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;
- (o) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;
- (p) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness, on their journey to a labour-district;
- (r) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;
- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and
- (t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under

(Chapter IX—Penalties and Procedure.—Secs. 164-166.)

sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

CHAPTER IX.

PENALTIES AND PROCEDURE.

Recruitment,
etc., in con-
travention of
Act or noti-
fication

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Willful mis-
description
by recruiter

165. Whoever, being a recruiter, wilfully gives false information to a Registering-officer regarding the name, caste, native district or village of any person produced before such officer for registration as a labourer or regarding any other particulars required to be entered in the register prescribed by section 34, sub-section (2), shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Recruiter re-
moving, etc.,
unregistered
person

166. Whoever, being a recruiter,—

- (a) removes, or attempts to remove, any person to a depôt before he has been registered under section 34, or induces or attempts to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aids or attempts to aid him in going to a depôt or in leaving any such local limits as aforesaid before he has been so registered; or
- (b) induces or attempts to induce any person who has been so registered to proceed to any place other than the depôt which has been established by the contractor on whose behalf the recruiter is licensed, or conveys or attempts to convey him to such place;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

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(Chapter IX.—Penalties and Procedure—Secs. 167-170.)

167. (1) Whoever, being a recruiter or a person deputed by a recruiter to accompany labourers to a depôt fails to provide any labourer or any dependant whom he accompanies on the journey to the depôt with proper and sufficient food and lodging or otherwise ill-treats the labourer or dependant on the journey, shall be punishable with fine which may extend to fifty rupees; and, in default of payment of the fine within twenty-four hours, with imprisonment for a term which may extend to one month.

Recruiter not
supplying
proper food,
etc

(2) The convicting Magistrate may award the whole or any portion of any fine levied under sub-section (1) as compensation to the labourer in respect of whom, or of whose dependant, the failure or ill-treatment has occurred.

168. (1) Any labourer engaged by a recruiter who, having been registered under section 34, without reasonable cause refuses or neglects when at the depôt to execute, in accordance with the provisions of section 44, a labour contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depôt and maintaining him therein; and, in default of payment of the fine, with imprisonment for a term which may extend to one month.

Labourer
refusing
without
reasonable
cause to
execute
contract at
depôt

(2) Any labourer so punished may be forthwith discharged from the depôt.

(3) Every fine levied under sub-section (1) shall be paid to the contractor, sub-contractor or recruiter by whom such expense, as aforesaid was incurred.

169. (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

Labourer
refusing to
execute
contract with
garden-sardar

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

Garden-sardar
failing to
report himself,
etc.

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in the certificate;

or

(b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

(c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

(Chapter IX.—Penalties and Procedure.—Secs. 171, 172.)

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-
sardar, etc.,
abandoning
labourers,
etc

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under section 55 or section 76 to accompany labourers to a labour-district,—

- (a) wilfully abandons any labourer or his dependant on the way to the labour-district; or
- (b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or
- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-
sardar making
over
labourers to
contractors,
etc

172. (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to any contractor, or sub-contractor, or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer; or
- (b) places any such person as aforesaid in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 29, sub-section (2); or
- (c) allows any person engaged as a labourer by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 62;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was co-intersigned.

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(Chapter IX.—Penalties and Procedure.—Secs. 173-177.)

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.

Garden-sardar failing to comply with instructions endorsed on way-bill

174. Whoever,—

- (a) being a garden-sardar employed under a permit to engage persons and assist them to emigrate in accordance with the provisions of section 90, infringes any of the provisions of that section; or
- (b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;

Unlawful engagement of emigrants by garden-sardar

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

175. Whoever, being a local agent licensed under section 64 or a selecting agent licensed under section 65, retains or acquires any interest in the business of a contractor or works for a contractor for hire or reward shall be punishable with fine, which may extend to one thousand rupees.

Local agent or selecting agent working with contractor

176. (1) Whoever,—

- (a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India; or
- (b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district,

Master receiving native passengers on board in contravention of Act.

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

177. Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done, any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Fraudulent alteration of vessel

(Chapter IX.—Penalties and Procedure.—Secs. 178-185.)

Master not
complying
with
section 102

178. Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not
complying
with order
under
section 101

179. Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master
permitting
labourer
to leave
vessel
contrary
to section
106.

180. Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master
wilfully
omitting to
stop vessel
at certain
places
Person
disobeying
Magistrate's
orders as to
communica-
tion between
vessel and
land

181. Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

Person
disobeying
Magistrate's
orders as to
communica-
tion between
vessel and
land
Master or
medical
officer
disobeying
or
neglecting
to enforce
rules.
Labourer
deserting,
etc., after
registration

182. Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

183. Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

184. Whoever, having executed a labour-contract,—

(a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

(b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punishable with imprisonment for a term which may extend to one month.

Employer
refusing or
omitting to
keep regis-
ters, etc.

185. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

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(Chapter IX.—Penalties and Procedure.—Secs. 186-192.)

186. Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 123

187. Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person compelling labourer to perform labour for which he is unfit
Persons buying labourer's rations

188. Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

189. (1) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

Employer omitting to provide house accommodation, etc

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(3) If the employer fails to pay the fine imposed under subsection (2), the person on whose account he has been acting shall be liable to pay the same.

190. Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues.

Employer neglecting to provide hospital-accommodation.

191. Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers, or any class of labourers, as the case may be, every employer who until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees.

Employer causing labourer to reside on estate declared unfit for residence.

192. (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying

Unlawful absence from work.

(Chapter IX.—Penalties and Procedure.—Secs. 193, 194.)

the periods of absence. When any employer so sends* any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract:

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

Explanation.—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

Labourer
absent with-
out cause.

193. Whoever, being a labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days; and, in case the absence has extended to twenty days, in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

Explanation.—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

Statement of
deserters.

194. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing, in such form as the Local Government may prescribe, containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month, or previously, have been arrested or have returned to his service during the preceding month.

of 1901.]

(Chapter IX.—Penalties and Procedure.—Secs. 195, 196.)

195. (1) Where any labourer deserts from his employer's service the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found:

Deserter may
be apprehended
without warrant.

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

196. (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer.

Procedure at
police-station.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

(Chapter IX.—Penalties and Procedure.—Secs. 197—202.)

Procedure on
complaint of
desertion.

197. Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Punishment
for desertion.

198. (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Compensation
for wrongful
arrest.

199. (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer arrested.

Cancellation
of contract
by desertion.

200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect.

Penalty for
drunkenness
or neglect
of sanitary
regulations.

201. Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

Portion of
sentence may
be cancelled
on application
of employer.

202. (1) The employer of a labourer sentenced to imprisonment, for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence, passed on the labourer

of 1901.]

(Chapter XI.—Penalties and Procedure.—Secs. 203-205.)

or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense.

Expense of forwarding labourer to be paid by employer.

204. (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

Conviction not to operate as a release.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

205. (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

Endorsement on contract of imprisonment for offence against Act.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

(Chapter IX.—Penalties and Procedure.—Secs. 206—211.)

Endorsement
on contract
of period of
any other
imprisonment

206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Periods
endorsed
to be added
to term of
contract

207. The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Other person
enticing
away,
harbouring
or employing
labourer
under labour-
contract

208. (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

Failure to
forward
contract
under section
118 or to
cause labourer
to appear
under section
120.

209. Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.

Employer or
other person
neglecting to
send labourer
before
Magistrate
as provided
by section
146.

210. Whoever, being bound by section 146 to send any labourer before or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine, which may extend to two hundred rupees.

Employer
refusing to
endorse
labour-con-
tract, etc.

211. Whoever, being an employer,—

- (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155; or
- (b) detains a labourer after the determination of his labour-contract; or
- (c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof;

shall be punishable with fine which may extend to two hundred rupees.

of 1901.]

*(Chapter IX.—Penalties and Procedure.—Chapter X.—
Miscellaneous.—Secs. 212-217.)*

212. Whoever, being an employer or a person acting for an employer refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

Abetment.

of 1860

213. Whoever abets, within the meaning of the Indian Penal Code,¹ any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence.

214. Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial for offences.

CHAPTER X.

MISCELLANEOUS.

215. Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.

Recovery of sums due under Act

216. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Wages due under labour-contract a charge upon estate

217. (1) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it

¹ Printed in General Acts, 1834-67, Ed. 1909, p. 248.

(Chapter X.—Miscellaneous.—Secs. 218-223.)

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application
of proceeds of
fines, fees and
rates

¹218. The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, of meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.

Duty of
Assistant
Inspector.

219. Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Powers of
officers under
this Act to be
exercisable
from time to
time.

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Power to
exempt
labour-dis-
trict from
Act.

221. The Chief Commissioner of Assam may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Notifications
not to affect
prior acts,
etc

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Repeal

223. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

¹This section was substituted for the original section 218 by the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), s 3, *post*, p 759

of 1901.]

(The First Schedule.—Form of Labour-contract between Labourer and Employer.)

THE FIRST SCHEDULE.

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

(See section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901, between *A B* (hereinafter called the labourer) of the one part and * [*C D* (representative, local agent or garden-sardar) on behalf of] *E F* (hereinafter called the employer) on the other part, witnesseth that the said * [representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer, that if he, the said labourer, do remain and labour† on the ^{X estate} _{Y estates} ‡ of his said employer in the labour district of _____ for the term of _____ years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on the said ^{estate} _{estates}, pay or cause to be paid to the said labourer monthly wages at the rate of Rs. § _____ for a completed daily task regulated in accordance with the provisions of the said Act,¹¹ and, when such task as aforesaid is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done and that during the said period he, the said employer, will supply to the said labourer rice at a price of Rs. _____ per maund and faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at _____ this _____ day of _____ 19____.

Signature of Labourer and of Employer (or of his Representative, Local Agent or Garden-sardar.)

* Parts in brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

¹¹ [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]

of 1901.]

(The Second Schedule.—Enactments repealed.)

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 223.)

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1882	1	The Assam Labour and Emigration Act, 1882	The whole
1891	12	The Repealing and Amending Act, 1891.	So much of section 2 and the first schedule as relates to Act 1 of 1882.
1893	7	The Inland Emigration Act, 1893.	The whole
1897	5	The Repealing and Amending Act, 1897	So much of section 2 and of the first and second schedules as relate to Act 1 of 1882 and Bengal Act 1 of 1889.
<i>Act of the Lieutenant-Governor of Bengal in Council</i>			
1889	1	The Inland Emigrants Health Act, 1889.	The whole

ACT 1 OF 1903

(THE REPEALING AND AMENDING ACT, 1903)¹.

(6th March, 1903.)

An Act to facilitate the citation of certain enactments, to amend certain enactments and to repeal certain other enactments.

Whereas it is expedient to facilitate the citation of the enactments specified in the first Schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second Schedule to this Act;

*And whereas it is also expedient that certain enactments specified in the third Schedule to this Act, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;*²

It is hereby enacted as follows:—

1. This Act may be called the Repealing and Amending Act, 1903. Short title

2. Each of the enactments described in the first three columns of the first Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof. Citation of certain enactments.

3. The enactments specified in the second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

4. *The enactments specified in the third Schedule are hereby repealed, to the extent mentioned in the fourth column thereof.*² Repeal of certain enactments.

5. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; Savings

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 73, and for Proceedings in Council, see *ibid.*, Pt. VI, p. 7.

LOCAL EXTENT.—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed in this Code because portions of the Schedules which affect Bengal are omitted from the Act as published in the General Acts, 1898-1903, Ed. 1909, p. 568.

The Act is in force in the Chittagong Hill-tracts—see Vol. IV, Pt. VII.

² The matter printed in italics is spent.

(Sec. 5.)

any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

of 1903.]

THE FIRST SCHEDULE.

SHORT TITLES

(See section 2.)

Year.	No.	Title or subject	Short title.
1	2	3	4

PART I—REGULATIONS OF THE BENGAL CODE.

1793	19 ¹	A Regulation for re-enacting, with modifications, the rules passed by the Governor-General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed <i>bādshāhi</i> or royal; and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public revenue	The Bengal Revenue-free Lands (Non-Bādshāhi Grants) Regulation, 1793.
	37 ¹	A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold <i>Altāmgah</i> , <i>jāgir</i> and other lands exempt from the payment of public revenue, under grants termed <i>bādshāhi</i> or royal; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.	The Bengal Revenue-free Lands (Bādshāhi Grants) Regulation, 1793.
1794	3 ¹	A Regulation for prescribing the process by which <i>Tahsil-dars</i> are to demand payment of arrears; and for enabling the Collectors to recover from native officers employed under them public money or papers which they may embezzle or retain.	The Bengal Native Revenue-officers Regulation, 1794. •

¹ Printed ante.

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
PART I.—REGULATION OF THE BENGAL CODE— <i>contd.</i>			
1795	1 ¹	A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars.	The Benares Permanent Settlement Regulation, 1795.
"	15 ¹	A Regulation for referring certain cases to the decision of the Raja of Benares.	The Benares Family Domains Regulation, 1795.
"	27 ¹	A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the Permanent Settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estate; or portions of estates and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided or portions of estates which may be transferred.	The Benares Permanent Settlement (Supplemental) Regulation, 1795
"	44 ¹	A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.	The Benares Inheritance Regulation, 1795
1798	1 ²	A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The Bengal Land (Conditional Sales) Regulation, 1798.
1800	8 ³	A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue.	The Bengal Revenue-free Lands Regulation, 1800.

¹ Printed in the United Provinces Code, 1906, Vol. I.² Printed in the Punjab and N.-W. Code, 1903.³ Printed ante, p. 81.

of 1903.]

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject	Short title.
1	2	3	
PART I—REGULATIONS OF THE BENGAL CODE— <i>contd.</i>			
1801	1 ¹	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon	The Bengal Land revenue Assessment Regulation, 1801
1803	33 ²	<i>A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government in the Provinces ceded by the Nawab Wazir to the Honble the English East India Company</i>	<i>The United Provinces Native Revenue officers Regulation, 1803</i>
1805	12 ¹	A Regulation for the settlement and collection of the public revenue in the <i>Zila</i> of Cuttack, including the <i>Parganas</i> of Pataspur, Kumardachor and Bhogra, at present included in the <i>Zila</i> of Midnapur.	The Cuttack Land revenue Regulation, 1805
"	13 ¹	A Regulation for the maintenance of the peace and for the support and administration of the Police in the <i>Zila</i> of Cuttack, and for amending certain provisions contained in Regulation 4, 1804.	The Cuttack Police Regulation, 1
1806	17 ⁴	<i>A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation 15, 1793; also for a general extension of the period fixed by Regulations 1, 1798, and 34, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kabala or other similar designation.</i>	<i>The Bengal Land (Redemption and Foreclosure) Regulation, 1806.</i>

¹ Printed ante.² Printed in the United Provinces Code, 1906, Vol. I³ Printed in the Punjab and N.-W. Code, 1908.

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*

1810	19 ¹	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes; for the maintenance and repair of bridges, <i>sarais</i> , <i>khatras</i> and other public buildings; and for the custody and disposal of <i>nazul</i> property or escheats.	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1812	5 ¹	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	The Bengal Land-revenue Sales Regulation, 1812.
"	18 ¹	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof.	The Bengal Leases and Land-revenue Regulation, 1812.
1814	29 ¹	A Regulation for the settlement of certain <i>mahals</i> in the district of Birbhum /usually denominated the <i>Ghatwali mahals</i> .	The Bengal Ghatwali Lands Regulation, 1814.
1816	5 ¹	A Regulation for establishing the office of <i>Kánungo</i> in the district of Cuttack, the <i>pargana</i> of Patáspur, and the several <i>parganas</i> dependent on it.	The Bengal Kánungos Regulation, 1816.
"	"	" " " " " "	" " " " " "
1817	12 ¹	A Regulation for securing the better administration of the office of <i>Patwári</i> in the Ceded and Conquered Provinces, the Provinces of Bihar and Benares, the district of Cuttack, the <i>pargana</i> of Patáspur and its dependencies.	The Bengal Patwáris Regulation, 1817.

¹ Printed *ante*.
 The entry relating to Ben. Reg. 9 of 1816 (the Sundarbans Regulation, 1816), is omitted, as having been repealed by the Sundarbans Act, 1906 (Ben. Act 1 of 1906).

of 1903.]

THE FIRST SCHEDULE—*contd*

	Title or subject	Short title.
		1
PART I.—REGULATIONS OF THE BENGAL CODE— <i>contd</i>		
20 ¹	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of <i>darogas</i> and other subordinate officers of police	The Bengal Police Regulation, 1817
1819	¹ A Regulation for re-establishing <i>Kánungos</i> and reforming the office of <i>Patwáris</i> throughout the Province of Bengal, and for explaining and modifying certain parts of Regulation 12, 1817	The Bengal Kánungos and Patwáris Regulation, 1819
"	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made	The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819
1821	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of <i>parganas</i> or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.	The Bengal Land revenue (Assistant Collectors) Regulation, 1821.
1822	A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land-revenue in the territories belonging to the Presidency of Fort William.	The Bengal Board of Revenue Regulation, 1822.

¹ Printed *ante*.

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*

1822	7 ¹	A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Patáspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.	The Bengal Land-revenue Settlement Regulation, 1822.
	11 ¹	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.	The Bengal Government Indemnity Regulation, 1822.
1823	6 ¹	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.	The Bengal Indigo Contract Regulation, 1823.
1825	9 ¹	A Regulation for extending the operation of Regulation 7, 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of	The Bengal Land-revenue Settlement Regulation, 1825.

of 1903.]

THE FIRST SCHEDULE—*contd.*

Year	Title or subject		Short title.
PART I.—REGULATIONS OF THE BENGAL CODE— <i>contd.</i>			
1825	9— <i>contd.</i>	the <i>malguzars</i> , or to hold the same <i>khas</i> for a term of years; for modifying and adding to the rules contained in Regulation 2, 1819; and for making certain other amendments in the existing Regulations	
13 ¹	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by <i>Kāntingos</i> in the Province of Bihar; and to provide for the future settlement of such lands, as well as of the lands composing other resumed <i>lākhirāj</i> tenures with the present occupants, when so directed by Government	The Bengal Land-revenue Settlement (Resumed <i>Kāntingos</i> and Revenue-free Lands) Regulation, 1825	
14 ¹	A Regulation to declare the extent of the authority possessed by the Revenue authorities, subordinate to the Governor General in Council, in the confirmation of <i>lākhirāj</i> tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Rao to the British Government, and annexed to the <i>Zila</i> of Bundelkhand, under the provisions of Regulation 2, 1818.	The Bengal Revenue-free Lands Regulation, 1825	

THE FIRST SCHEDULE—*contd.*

Year	No.	Title or subject	Short title
1	2	3	4

PART I—REGULATIONS OF THE BENGAL CODE—*contd.*

1828	3 ¹	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government under the general law of the country; and for otherwise more effectually securing the realization of the public dues.	The Bengal Land Revenue Assessment (Resumed Lands) Regulation, 1828
	4 ¹	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822.	The Bengal Land Revenue Settlement Regulation 1828
	7 ²	<i>A Regulation for amending the provisions of Regulation 15, 1793, and for defining the authority of the Raja of Benares in the Mahals therein referred to</i>	<i>The Benares Family Domains Regulation, 1828.</i>
1829	1 ¹	A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a <i>Sadar</i> Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the <i>mufussal</i> special Commissioners acting under the provisions of Regulation 1, 1821; and otherwise for providing for the better administration of Civil and Criminal Justice.	The Bengal Revenue Commissioners Regulation, 1829.

¹ Printed *ante*.² Printed in the United Provinces Code, 1906, Vol. I.

of 1903.]

THE FIRST SCHEDULE—*contd*

		Title or subject	Short title
I. REGULATIONS OF THE BENGAL CODE <i>concluded</i>			
1830	5 ¹	A Regulation relating to the cultivation and delivery of Indigo-plant	The Bengal Indigo Contracts Regulation, 1830
1833	9 ¹	A Regulation to modify certain portions of Regulation 7 of 1822 and Regulation 4 of 1828, to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village accounts, for the more extensive employment of Native agency in the Revenue Department, and to declare the intent of section 5, Regulation 7 of 1822, touching claims to <i>mitkhana</i>	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

1836	10 ¹	Indigo Contracts	The Bengal Indigo Contracts Act, 1836.
	21 ¹	Districts	The Bengal Districts Act, 1836.
1841	12 ¹	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	The Bengal Land-revenue Sales Act, 1841.
1847	9 ¹	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa.	The Bengal Alluvion and Dereliction Act, 1847
1848	20 ¹	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.	The Bengal Landholders' Attendance Act, 1848.
1850	23 ¹	An Act for securing the Land-revenue of Calcutta.	The Calcutta Land-revenue Act, 1850.

¹ Printed *ante*

THE FIRST SCHEDULE—*contd.*

Year	No	Title or subject.	Short title.
1	2	3	4
PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL— <i>contd.</i>			
1850	14 ¹	An Act for consolidating the Board of Customs, Salt and Opium and the Sadar Board of Revenue in the Lower Provinces of Bengal	The Bengal Board of Revenue Act, 1850.
1855	32 ¹	An Act relating to Embankments.	The Bengal Embankment Act, 1855.
„	37 ²	<i>An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Southals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.</i>	<i>The Sonthal Parganas Act, 1855</i>
1856	18 ¹	An Act relating to the administration of the public revenues in the Town of Calcutta	The Calcutta Land-Revenue Act, 1856.
„	20 ³	<i>An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.</i>	<i>The Bengal Chaukidars Act, 1856.</i>
„	22 ¹	An Act for establishing a toll on boats and timber passing through the Karatoya river in the district of Bogra.	The Karatoya Tolls Act, 1856.
1857	10 ²	<i>An Act to amend Act 37 of 1855.</i>	<i>The Sonthal Parganas Act, 1857.</i>
	13 ¹	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	The Opium Act, 1857.

¹ Printed *date*.² To be printed in the Bihar and Orissa Code.³ Act 27 of 1866 was repealed in Bengal by the Bengal Municipal Act, 1876 (Ben Act 5 of 1876). It is printed in the Ajmere Code, 1905, the Punjab and N.-W. Code, 1903, and the United Provinces Code, 1906, Vol. I.

of 1903.]

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject	Short title.
PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.— <i>contd.</i>			
1857	21 ¹	An Act to make better provision for the order and good Government of the station of Howrah.	The Howrah Offences Act, 1857.
1858	31 ¹	An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal	The Bengal Alluvial Land Settlement Act, 1858
1859	5 ¹	An Act to empower the holders of <i>ghât-wâli</i> lands in the district of Birbhûm to grant leases extending beyond the period of their own possession.	The Bengal Ghât-wâli Lands Act, 1859.
	10 ¹	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal	The Bengal Rent Act, 1859
	11 ¹	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	The Bengal Land revenue Sales Act, 1859.
	12 ¹	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	The Calcutta Pilots Act, 1859.
1867	19 ¹	An Act to make further provision for the administration of justice in the district of Darjeeling.	The Darjeeling (High Court's Jurisdiction) Act, 1867.
	23 ²	An Act for the suppression of murderous outrages in certain districts of the Punjab.	The Punjab Murderous Outrages Act 1867.
1871	22 ³	An Act to authorise the extension of the <i>Chaukidari</i> Act to places where there is no <i>Jamadar</i> or Police.	The Bengal <i>Chaukidari</i> (Amendment) Act, 1871.

¹ Printed *ante*.² Printed in the Punjab and N. W. Code, 1903.³ Printed in the Ajmere Code, 1906, the Punjab and N. W. Code, 1903, and the United Provinces Code, 1906, Vol. I.

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL— <i>concl'd</i>			
1876	7 ¹	<i>An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same A. t.</i>	<i>The Criminal Tribes (Amendment) Act, 1876</i>
1877	9 ²	<i>An Act to revive and amend Act No. 23 of 1867</i>	<i>The Punjab Murderous Outrage (Amendment) Act, 1877</i>
1878	12 ²	<i>An Act for the further amendment of the Punjab Laws Act, 1872</i>	<i>The Punjab Laws (Amendment) Act, 1878</i>
1881	7 ¹	An Act to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880).	The Bengal Cess (Amendment No. 1) Act, 1881
1883	6 ⁴	An Act to give power to arrest persons whose evidence is needed under Act 12 of 1859.	The Cidantla Pilots (Amendment) Act, 1883.
1884	5 ⁴	<i>An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.</i>	<i>The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.</i>
1886	8 ³	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.	The Bengal Tenancy (Amendment) Act, 1886.
1895	19 ²	<i>An Act to amend the Punjab Courts Act, 1884.</i>	<i>The Punjab Courts (Amendment) Act, 1895.</i>
1895	17 ²	<i>An Act to amend the Punjab Land-revenue Act, 1887</i>	<i>The Punjab Land-revenue (Amendment) Act, 1896.</i>
"	18 ³	<i>An Act to amend the Punjab Municipal Act, 1891.</i>	<i>The Punjab Municipal (Amendment) Act, 1896.</i>
PART III.—BENGAL ACTS.			
1862	3 ⁶	An Act to amend Act 11 of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency).	The Bengal Land-revenue Sales (Amendment) Act, 1862.

¹ Act 7 of 1876 has been repealed by the Criminal Tribes Act, 1911 (3 of 1911).² Printed in the Punjab and N. W. Code, 1903.³ Printed *ante*⁴ To be printed in the Bihar and Orissa Code.⁵ Act 18 of 1896 was repealed by the Punjab Municipal Act, 1911 (Pan Act 3 of 1911)⁶ Printed in Vol. 12 of this Code.

of 1903.]

THE FIRST SCHEDULE —*contd.*

Year.	No	Title or subject	Short title.
1	2		
PART III.—BENGAL ACTS — <i>contd.</i>			
1842	6 ¹	An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The Bengal Rent Act, 1862
"	7 ¹	An Act to repeal section 30 of Regulation 2, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made)	The Bengal Land revenue Resumption Act, 1862
"	8 ²	An Act to improve the system of Zamindari Daks in the Provinces subject to the Government of Bengal	The Bengal Zamindari Dak Act, 1862.
1863	2 ³	An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta.	The Calcutta and Howrah Smoke Nuisances Act, 1863.
1864	4 ¹	An Act to amend Act 21 of 1836	The Bengal Districts Act, 1864.
1865	4 ¹	An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act 3 of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.	The Bengal Prevention of Inoculation Act, 1865.

¹ Printed in Vol II of this Code² Ben Act 8 of 1862 was repealed in Western Bengal by the Repealing and Amending (and Cesses) Act, 1907 (1 of 1907). It is obsolete in Eastern Bengal.³ Ben Act 3 of 1863 (the Calcutta and Howrah Smoke Nuisances Act, 1863) has been repealed by the Bengal Smoke Nuisances Act, 1905 (Ben. Act 3 of 1905).

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
PART III.—BENGAL ACTS— <i>contd.</i>			
1865	7 ¹	An Act to make provision for the better regulation and supervision of Public Slaughter-houses in the Suburbs of Calcutta, and for the adoption of proper conservancy arrangements connected therewith.	The Bengal Municipal (Slaughter-houses and Meat-markets) Act, 1865.
"	8 ¹	An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865.
1866	2 ¹	An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.	The Calcutta Suburban Police Act, 1866.
"	3 ¹	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making <i>Laws</i> and Regulations.	The Bengal Legislative Council (Witnesses) Act, 1866.
"	7 ¹	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.	The Bengal Embankment Act, 1866.
1867	2 ¹	An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.	The Bengal Public Gambling Act, 1867.
"	3 ¹	An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.	The Bengal Ports Act, 1867.

¹ Printed in Vol. II of this Code.

of 1903.]

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject	Short title.
PART III—BENGAL ACTS— <i>contd.</i>			
1867		An Act to explain and amend Act 6 of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867.
1868		An Act to amend the law respecting appeals in cases under Regulation 7 of 1822.	The Bengal Land-revenue Settlement Act, 1868.
		An Act to amend the provisions of Act 9 of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa)	The Bengal Alluvion (Amendment) Act, 1868.
		An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land revenue.	The Bengal Land-revenue Sales Act, 1868.
1869	1 ¹	An Act for the Prevention of Cruelty to Animals.	The Bengal Cruelty to Animals Act, 1869.
		An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals.	The Bengal Cruelty to Animals (Arrest) Act, 1869.
		An Act to amend the constitution of the Police-force in Bengal.	The Bengal Police Act, 1869.
1871	1 ¹	An Act to amend the Village Chaudidari Act, 1870.	The Bengal Village Chaudidari Act, 1871.
"	2 ¹	An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.	The Bengal Land-revenue Sales (Amendment) Act, 1871.
1873	1 ¹	An Act to amend the Salt Act, 1864.	The Bengal Salt Act, 1873.

¹ Printed in Vol II of this Code

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject	Short title.
1	2	3	4

PART III.—BENGAL ACTS—*contd.*

1873	4 ¹	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873.
1876	1 ¹	An Act to provide for the voluntary Registration of Muhammadan Marriages and Divorces.	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.
"	2 ¹	An Act to amend Act 11 of 1849, Act 21 of 1856 and Act 4 (B.C.) of 1866	The Calcutta Police (Amendment) Act, 1876
1878	5 ¹	An Act to amend Bengal Act 7 of 1876.	The Bengal Land Registration (Amendment) Act, 1878
1879	2 ¹	An Act to amend and extend the Puri Lodging-house Act, 1871.	The Puri Lodging House (Extension) Act, 1879
"	3 ¹	An Act to provide for the periodical inspection of Steam-boilers and Prime-movers attached thereto in the Town and Suburbs of Calcutta and in Howrah.	The Bengal Steam-boilers and Prime-movers Act, 1879.
"	8 ¹	An Act to define and limit the powers of Settlement officers	The Bengal Rent Settlement Act, 1879.
1880	3 ¹	An Act to amend the Howrah Bridge Act, 1871.	The Howrah Bridge Act, 1880
1881	2 ¹	An Act to amend the Cess Act, 1880.	The Bengal Cess (Amendment No. 2) Act, 1881
"	3 ¹	An Act to amend the Court of Wards Act, 1879.	The Bengal Court of Wards (Amendment) Act, 1881.
1883	1 ²	An Act to amend the Bengal Excise Act, 1878.	The Bengal Excise (Amendment) Act, 1883.
"	5 ¹	An Act for the Registration and Control of Porters and <i>Dandewallas</i> in the Darjeeling and Kurseong Municipalities.	The Darjeeling and Kurseong Municipal (Porters) Act, 1883

¹ Printed in Vol. II of this Code² Ben Act 1 of 1883 has been repealed, in Western Bengal, by the Bengal Excise Act, 1909 (Ben Act 5 of 1909) and, in Eastern Bengal, by the Eastern Bengal and Assam Excise Act, 1910 (E. B. and A. Act 1 of 1910).

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THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	
PART III—BENGAL ACTS— <i>contd.</i>			
1884	1 ¹	An Act further to amend Bengal Act 4 of 1871	The Puri Lodging-House (Extension) Act, 1884.
"	2 ¹	An Act to amend the Calcutta Tramways Act, 1880.	The Calcutta Tramways (Amendment) Act, 1884.
1886	1 ¹	An Act to further amend the Village Chaudhari Act, 1870.	The Bengal Village Chaudhari (Amendment) Act, 1886.
"	2 ¹	An Act to amend Act 2 (B. C.) of 1866, and the Calcutta Police Act, 1866	The Calcutta and Suburban Police (Amendment) Act, 1886.
"	3 ¹	An Act to amend Act 3 (B. C.) of 1884	The Bengal Municipal (Amendment) Act, 1886.
1887	2 ¹	An Act to amend Bengal Act 5 of 1880.	The Bengal Vaccination (Amendment) Act, 1887.
1889	4 ¹	An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.	The Calcutta Burial Boards Act, 1889.
1890	1 ²	An Act to consolidate the Calcutta and the Suburban Police Superannuation Funds	The Calcutta and Suburban Police (Superannuation Fund) Act, 1890.
"	2 ¹	An Act to amend the Bengal Vaccination Act, 1880.	The Bengal Vaccination (Amendment) Act, 1890.
1892	1 ³	An Act to further amend the Village Chaudhari Act, 1870	The Bengal Village Chaudhari (Amendment) Act, 1892.
1894	2 ¹	An Act to amend the Calcutta Port Act, 1890	The Calcutta Port (Amendment) Act, 1894.
"	4 ¹	An Act to amend the Bengal Municipal Act, 1884	The Bengal Municipal (Amendment) Act, 1894.
1895	2 ³	An Act to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866	The Calcutta and Suburban Police (Amendment) Act, 1895.

¹ Printed in Vol. II of the Code.² Ben Act 1 of 1890 has been repealed by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben Act 6 of 1905)³ Printed in Vol. III of this Code.

THE FIRST SCHEDULE—*concl.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
PART III.—BENGAL ACTS— <i>concl.</i>			
1895	4 ¹	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 1) Act, 1895.
"	6 ¹	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 2) Act, 1895.
1896	2 ¹	An Act to further amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1896.
1897	1 ¹	An Act to amend the Public Demands Recovery Act, 1895.	The Bengal Public Demands Recovery (Amendment) Act, 1897.
1899	2 ¹	An Act to repeal the Civil Courts Amins Act, 1856, in Bengal.	The Bengal Civil Court Amins Act, 1899.

¹ Printed in Vol. III of this Code.

of 1903.]

THE SECOND SCHEDULE.

AMENDMENTS.

(See section 3.)

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

PART I.—REGULATIONS OF THE BENGAL CODE.

1793	2 ¹	The Bengal Land-revenue Regulation, 1793.	<p>In section 18, <i>after</i> Collector insert <i>or</i>.</p> <p>In sections 36, 38, 39, 40, 42, 43 and 45, <i>the words</i> Governor General in Council, <i>wherever they occur</i>, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 40, the word <i>his</i> shall be read as if the word <i>its</i> were substituted therefor.</p> <p>In section 45, the word <i>him</i> shall be read as if the word <i>it</i> were substituted therefor.</p>
		The Bengal Decennial Settlement Regulation, 1793.	<p>In section 20, the words Governor General in Council shall be read as if the words Local Government were substituted therefor.</p> <p>In section 21, the word Government shall be read as if the words the Local Government were substituted therefor.</p>
		Revenue-free Lands (Non-Bādshāhi Grants).	<p>In section 2, 3, 8 and 15, the words Governor General in Council, <i>wherever they occur</i>, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 2, Clause Fourth, the word <i>him</i> shall be read as if the word <i>it</i> were substituted therefor.</p> <p>In section 10, the words Governor General in Council, shall be read as if the words Governor General in Council or the Local Government were substituted therefor.</p> <p>In section 15, the word <i>it</i>, <i>where it last occurs</i>, shall be read as if the word <i>it</i> were substituted therefor.</p>

¹ Printed ante.

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4
PART I.—REGULATIONS OF THE BENGAL CODE— <i>contd.</i>			
1793	37 ¹	Revenue-free Lands (Bādshāhī Grants).	<p>In sections 2, 3, 5 and 10 <i>the words</i> Governor General in Council, <i>whenever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 10, <i>the word</i> him, <i>where it last occurs, shall be read as if the word</i> it <i>were substituted therefor.</i></p>
1799	5 ¹	The Bengal Wills and Intestacy Regulation, 1799	In section 7, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor, and the word</i> his, <i>where it last occurs, shall be read as if the word</i> its <i>were substituted therefor.</i>
1805	12 ¹	Land-revenue, Cuttack	<p>In sections 18, 20, 26, 28 and 30, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 18, clause <i>Third</i>, <i>the word</i> himself <i>shall be read as if the word</i> itself <i>were substituted therefor.</i></p> <p>In section 18, clause <i>Fifth</i>, <i>the word</i> him <i>shall be read as if the word</i> it <i>were substituted therefor.</i></p> <p>In section 22, <i>for</i> through the Board of Revenue for the information of the Governor General in Council <i>substitute</i> to the Board of Revenue.</p>
	13 ¹	Police, Cuttack	<p>In section 3, <i>the words</i> the Governor General in Council, by an order in Council, <i>shall be read as if the words</i> the Local Government, by notification in the Calcutta Gazette, <i>were substituted therefor.</i></p> <p>In section 4, clause <i>Fourth</i>, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p>

¹ Printed ante.

of 1903.]

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title	Amendments
1	2	3	
PART I.—REGULATIONS OF THE BENGAL CODE— <i>contd.</i>			
1810	19 ¹	Charitable Endowments, Public Buildings and Escheats.	<p>In section 3, <i>for</i> those Boards <i>substitute</i> the Board of Revenue.</p> <p>In section 4, <i>for</i> Boards <i>substitute</i> Board.</p> <p>In section 8, <i>for</i> those Boards respectively <i>substitute</i> the Board.</p> <p>In section 9, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 12, <i>for</i> superior Boards <i>substitute</i> Board of Revenue, <i>and for</i> Boards <i>substitute</i> Board.</p> <p>In section 13, <i>for</i> superior Board <i>substitute</i> Board of Revenue</p>
1812	5 ¹	Land-revenue Sales	In section 25, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor</i>
"	11 ¹	The Bengal Foreign Immigrants Regulation, 1812.	At the end of section 5, <i>for</i> the said Regulation <i>substitute</i> this Regulation.
1814	29 ¹	Ghâtwalî Lands	In section 5, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i>
1816	5 ¹	Kánúngos	In section 5 and 11, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i>
"	" 2	"	"
1817	12 ¹	Patwáris	In section 18, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor.</i>

¹ Printed *ante*² The entry relating to Ben. Reg. 9 of 1816 (Sundarbans) is omitted, as having been repealed by the Sundarbans Act, 1905 (Ben. Act 1 of 1905).

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendment.
1	2	3	4

PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*

1819	1 ¹	Kánúngoos and Patwáris ...	<p>In section 4, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 4, clause <i>Third</i>, <i>the word</i> he <i>shall be read as if the word</i> it <i>were substituted therefor.</i></p>
	2 ¹	Land-revenue Assessment (Resumed Lands).	<p>In section 13, clause <i>Third</i>, and in section 14, <i>the word</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 21, clause <i>Second</i>, <i>for</i> Boards <i>substitute</i> Board.</p>
"	8 ¹	The Bengal Patni Taluks Regulation, 1819.	In section 9, and in section 14, clause <i>Second</i> , <i>for</i> notes of the Bank of Bengal <i>substitute</i> currency notes.
1820	1 ¹	The Bengal Patni Taluks Regulation 1820.	In section 2, <i>for</i> the general Regulations <i>substitute</i> Law.
1821	4 ¹	Land-revenue (Assistant Collectors).	<p>In section 7, <i>for</i> by the Regulations <i>substitute</i> by law, <i>and for</i> the Regulations already in force <i>substitute</i> the law for the time being in force.</p> <p>In section 8, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 8, clause <i>Fifth</i>, <i>for</i> by the Regulations <i>substitute</i> by the laws, <i>and for</i> to the Regulations <i>substitute</i> to law.</p>

¹ Printed *ante*.

of 1903.]

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title	Amendments.
1	2	3	

PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*

1822	3 ¹	Board of Revenue	... In the title, <i>for the words from and altering to the end, substitute</i> of the Board of Revenue, and for controlling the distribution of powers between the members of the Board. In section 4, clause <i>First</i> , <i>for</i> The said Boards shall each of them <i>substitute</i> The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall In section 5, clause <i>First</i> , <i>for</i> any of the said Boards <i>substitute</i> the said Board. In section 5, second proviso, and clause <i>Second</i> , <i>for</i> a Board <i>substitute</i> the Board In section 5, clauses <i>Third</i> and <i>Seventh</i> , <i>for</i> Boards <i>substitute</i> Board
..	7 ¹	Land-revenue Settlement	... In section 2, clause <i>Sixth</i> , <i>for the words</i> as aforesaid, <i>where they first occur, substitute</i> acknowledged as the proprietor or possessor of a permanent interest in the <i>mahal</i> for which he has engaged In section 3, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor, and the words</i> by an Order in Council <i>shall be read as if the words</i> by notification in the local official Gazette <i>were substituted therefor.</i> In section 5, section 6, clause <i>Second</i> , section 7, clause <i>First</i> , section 8, section 9, clause <i>Third</i> , section 10, clauses <i>First</i> and <i>Third</i> , and sections 16, 17 and 32, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor; and in</i> section 35, <i>the words</i> Governor General in Council, <i>in the second place where they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i>

¹ Printed ante.

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*

1822	7 ¹	Land-revenue Settlement— <i>contd.</i>	<p>In section 9, clause <i>Third</i>, for Boards <i>substitute</i> Board, and for such a Board <i>substitute</i> that Board.</p> <p>In section 10¹, clause <i>Ninth</i>, section 16, proviso, and section 32, for the word Boards, wherever it occurs, <i>substitute</i> Board.</p> <p>In section 13, for Regulation <i>substitute</i> law.</p> <p>In section 20, clause <i>First</i>, the words the Government by an Order in Council shall be read as if the words the Local Government by notification in the local official Gazette were substituted therefor, the word he shall be read as if the word it were substituted therefor, and the word Government shall be read as if the words the Local Government were substituted therefor.</p> <p>In section 20, clause <i>Second</i>, the words Governor General in Council and the words Governor General shall be read as if the words Local Government were substituted therefor, and the words by an Order in Council shall be read as if the words by notification in the local official Gazette were substituted therefor.</p> <p>In section 23, clause <i>First</i> for other Regulation <i>substitute</i> other law.</p> <p>In section 24, clause <i>Second</i>, for the existing Regulations <i>substitute</i> any other law.</p> <p>In section 26, for such suits <i>substitute</i> suits the cognizance of which is hereby vested in Collectors.</p>
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¹ Printed ante.

of 1903.]

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*

1825	9 ¹	Land-revenue Settlement ...	<p>In section 3, section 4, section 5, clause <i>Eighth</i>, section 6 and section 8, <i>the words</i> Governor General in Council, <i>wherever they occur shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 3, <i>after Bihar insert or.</i></p> <p>In section 6, <i>the words</i> an Order in Council <i>shall be read as if the words</i> notification in the local official Gazette <i>were substituted therefor.</i></p> <p>In section 8, <i>for the words</i> rules <i>respectively substitute</i> section.</p>
"	13 ¹	Land-revenue Settlement ...	<p>In sections 2 and 5, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In the first paragraph of section 2, <i>the word</i> he <i>shall be read as if the word</i> it <i>were substituted therefor.</i></p> <p>In section 3, <i>for Regulations substitute</i> law.</p>
	14 ¹	Revenue-free Lands ...	<p>In section 1 and section 3, clause <i>Fifth</i>, <i>for Regulations</i> 8 <i>and substitute</i> Regulation.</p> <p>In sections 2 and 3, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p> <p>In section 3, clause <i>Fifth</i> <i>the word</i> his, <i>where it last occurs, shall be read as if the word</i> it <i>were substituted therefor.</i></p>

THE SECOND SCHEDULE—*contd.*

Year.	No.	Title or subject.	Amendments.
1	2	3	4
PART I.—REGULATIONS OF THE BENGAL CODE— <i>concl.</i>			
1825	14 ¹	Revenue-free lands— <i>contd.</i> ...	In section 6, <i>for</i> Revenue Boards <i>substitute</i> Board of Revenue, and <i>for</i> these Boards <i>substitute</i> that Board.
1827	3 ¹	The Bengal Corruption and Extortion Regulation, 1827.	In section 5, <i>for</i> a Court of Circuit or the Nizamat Adalat <i>substitute</i> the Court.
"	5 ¹	The Bengal Attached Estates Management Regulation, 1827.	In section 3, <i>for</i> several Regulations <i>substitute</i> Regulation.
1828	3 ¹	Land-revenue Assessment (Resumed Lands.)	In section 10, clauses <i>Second</i> and <i>Third</i> , <i>for</i> Boards <i>substitute</i> Board. In section 13, clause <i>First</i> the words Governor General in Council and the word <i>he</i> shall be read as if the words Local Government and the word <i>it</i> were respectively substituted therefor.
"	4 ¹	Land-revenue Settlement ...	In section 2, clause <i>Fourth</i> , <i>for</i> aforesaid <i>substitute</i> vested with the powers of a Collector.
1833	9 ¹	Land-revenue (Settlement and Deputy Collectors).	In the title, <i>for</i> Regulations <i>substitute</i> Regulation, and in section 1, <i>for</i> those Regulations <i>substitute</i> that Regulation. In sections 12 and 13, <i>for</i> Boards <i>substitute</i> Board. In section 16, the words Governor General in Council shall be read as if the words Local Government were substituted therefor.
PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.			
1836	21 ¹	Districts ...	The words the Governor General in Council by an Order in Council shall be read as if the words the Local Government, with the previous sanction of the Governor General in Council, by Notification in the local official Gazette were substituted therefor.

¹ Printed *ante*.

of 1903.]

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL— <i>contd.</i>			
1859	10 ¹	Rent ...	In sections 136 and 151, <i>for</i> Boards <i>substitute</i> Board.
"	11 ¹	Land-Revenue Sales ...	In section 22, <i>after</i> post bills <i>insert</i> currency notes. In section 32, <i>for</i> section 25 <i>substitute</i> section 2 of the Bengal Land-revenue Sales Act, 1868. In section 33, <i>for</i> section 25 of this Act <i>substitute</i> section 2 of the Bengal Land-revenue Sales Act, 1868.
"	12 ¹	Calcutta Pilots ...	In sections 2 and 18, <i>for the words</i> Superintendent of Marine, <i>wherever they occur, substitute</i> Port Officer.
1861	5 ²	The Police Act, 1861. ...	In section 34, <i>after</i> imprisonment <i>insert</i> with or without hard labour.
1867	3 ³	The Public Gambling Act, 1867.	In the title, <i>for the Central Provinces and British Burma substitute and the Central Provinces.</i> <i>in the preamble, for of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma substitute and of the Chief Commissioner of the Central Provinces.</i> <i>In section 1, for the definitions of Lieutenant-Governor and Chief Commissioner substitute the following, namely :—</i> "Lieutenant-Governor" means <i>the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be :</i> "Chief Commissioner" means <i>the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be .</i>

¹ Printed *ante*.² Printed in the General Acts, 1864-67, Ed. 1909, p. 378.³ Act 3 of 1867 is not applicable to Bengal. It is printed in the Ajmere Code, 1906, and other

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4
PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL— <i>contd.</i>			
1872	15 ¹	The Indian Christian Marriage Act 1872.	In section 82, for certificates of marriages, and also for marriage certificates, substitute certificates for marriage. In Schedule II, after declaration insert or oath.
1879	11 ²	The Hackney-Carriage Act, 1879	In section 3, for The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, substitute The Lieutenant-Governor of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
"	18 ³	The Legal Practitioners' Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9), before the words and figures Act I of 1846 insert So much of Chapter VI of Bombay Regulation 2 of 1827 as has not been repealed.
1881	13 ⁴	The Fort William Act, 1881. ...	In section 1, for Army Discipline and Regulation Act, 1879, substitute Army Act. In section 5, for Presidency Magistrates Act, 1877, substitute Code of Criminal Procedure, 1898; and for the High Courts Criminal Procedure Act, 1875, section 147, substitute section 526 of that Code. In section 7, for Magistrates appointed under the Presidency Magistrates Act, 1877, substitute Presidency Magistrates.
1889	5 ⁵	The Coroners (Madras) Act, 1889.	In the preamble and in section 4, sub-section (2), as amended by the Repealing and Amending Act, 1891, for the Code of Criminal Procedure, 1882, substitute the Code of Criminal Procedure, 1898.

¹ Printed in the General Acts, 1868-78, Ed. 1909, p. 345.² The entry relating to Act 12 of 1878 (Laws, Punjab) was repealed by the Punjab Pre-emption Act, 1905 (Pun. Act 2 of 1905), and is omitted.³ Act 14 of 1879 is not applicable to Bengal. It is printed in the Ajmere Code, 1905, and other Codes.⁴ Printed in the General Acts, 1879-86, Ed. 1909, p. 19.⁵ Printed *ante*.

of 1903.]

THE SECOND SCHEDULE—*contd*

Year	No	Subject or short title	Amendments
1	2	3	4

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1897	10	The General Clauses Act, 1897	<p>In section 3, clauses (5), (6), (30) and (35) after under insert the Indian Councils Act, 1861, or</p> <p>In section 3, after clause 8 insert the following :—</p> <p>(8a) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892.</p> <p>In section 3, after clause (44), insert the following :—</p> <p>(44a) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts 1861 and 1892.</p> <p>In section 3, after clause (55), insert the following :—</p> <p>(55a) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Acts, 1861 and 1892.</p> <p>In section 20, before the word "order," in each of the places in which it occurs, insert "notification."</p> <p>In section 21, for make substitute issue notification, between the words any and order insert, "notifications, and for made substitute issued."</p>
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¹ The entry relating to Act 13 of 1889 (the Cantonments Act, 1889), is omitted, as having been repealed by the Cantonments Act, 1910 (15 of 1910).

² Printed in the General Acts, 1887-97, Ed 1909, p. 571.

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1897	10	The General Clauses Act, 1897— <i>contd.</i>	In section 24, <i>before the word order, in each of the places in which it occurs insert</i> appointment, notification; <i>and before the word issued, in each of the places in which it occurs, insert</i> made or.
1898	5 ¹	The Code of Criminal Procedure, 1898.	<p>In section 260, sub-section (1), clause (i), <i>after 451 insert</i> 453, 454.</p> <p>In section 555, <i>for</i> 553 <i>substitute</i> 554.</p> <p>In the second schedule, column 5, against section 195 <i>for</i> Bailable <i>substitute</i> Not bailable.</p> <p>In the second schedule, column 8, against section 506 <i>for</i> Ditto <i>substitute</i> Presidency Magistrate or Magistrate of the first or second class.</p> <p>In the heading to the fifth schedule, <i>for</i> 554 <i>substitute</i> 555.</p> <p>In the fifth schedule, Form IV, <i>for</i> within days from this date <i>substitute</i> on the day of .</p> <p>In the fifth schedule, Forms XIII and XIV, <i>for the passage from comply where it occurs for the second time to released, substitute</i> be lawfully ordered to be released.</p>
1900	3 ²	The Prisoners Act, 1900. ...	<p>For section 29 <i>substitute the following</i> :—</p> <p>29. (1) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison—</p>

¹ Printed in General Acts, 1898-03, Ed. 1909, p. 38.² Printed in General Acts, 1898-03, Ed. 1909, p. 488.

of 1903.]

THE SECOND SCHEDULE—*contd.*

Year.	No	Subject or short title.	Amendments.
1	2	3	4

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1900	3	The Prisoners Act, 1900— <i>contd.</i>	<p>(a) under sentence of death, or</p> <p>(b) under, or in lieu of, a sentence of imprisonment or transportation, or</p> <p>(c) in default of payment of a fine or</p> <p>(d) in default of giving security for keeping the peace or for maintaining good behaviour,</p> <p>to any other prison in British India.</p> <p>(2) The Local Government and (subject to its orders and under its control) the Inspector General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.</p>
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PART III.—BENGAL ACTS.

1862	6 ¹	Rent	In section 14, for the said Act substitute Act 10 of 1859, and for section 7 of Act 1 of 1846 substitute section 27 of the Legal Practitioners' Act, 1879.
1865	7 ¹	Slaughter-houses and Meat-markets	In section 1, for the jurisdiction of the Municipal Commissioners of the Suburbs of the Town of Calcutta appointed under the provisions of Act 3 of 1864 passed by the Lieutenant-Governor of Bengal in Council (<i>the District Municipal Improvement Act</i>), substitute any limits to which this section has heretofore been, or may hereafter be, extended by notification under section 9.

¹ Printed in Vol. II of this Code.

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

PART III—BENGAL ACTS—*contd.*

1866	4 ¹	The Calcutta Police Act, 1866...	<p>In section 25, <i>for</i> such officer <i>substitute</i> officer of the Police Force.</p> <p>In section 33, <i>for</i> the Articles of War for Her Majesty's Army or Her Majesty's Navy or for the native officers or soldiers in Her Majesty's Indian Army, <i>substitute</i> the Naval Discipline Act, the Army Act or the Indian Articles of War.</p> <p>In section 95, <i>for the words</i> this Act, <i>in the second place in which they occur, substitute</i> sections 64 and 67 to 70 of the Indian Penal Code and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898.</p>
1867	4 ¹	Rent (Appeals) ...	In section 5, <i>for</i> the said recited Acts <i>substitute</i> the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862.
1869	1 ¹	Cruelty to Animals ...	In section 9, <i>for</i> the said Act 2 of 1866 <i>substitute</i> Bengal Act 2 of 1866.
1876	3 ¹	The Bengal Irrigation Act, 1876.	In section 95, <i>for</i> as a demand under section 1 of the aforesaid Bengal Act 7 of 1868, <i>substitute</i> under the procedure provided by the Public Demands Recovery Act, 1895, <i>for</i> the recovery of public demands.
1880	9 ¹	The Cess Act, 1880. ...	In section 29, Example B, <i>for</i> rate <i>substitute</i> ratio.

of 1903.]

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	

PART III.—BENGAL ACTS—*contd.*

	2 ¹	Amendment of the Calcutta Tramways Act, 1880.	<p>In the preamble, <i>for the words and figures</i> situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, <i>substitute</i> subject to the authority of the Corporation of Calcutta.</p> <p>In section 3, <i>for the words and figures</i> in Calcutta but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, <i>substitute</i> in those portions of Calcutta, as defined in the Calcutta Municipal Act, 1899, which are not subject to the authority of the Corporation of Calcutta, <i>and for the words and figures</i> within the local limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, <i>substitute</i> within the area subject to their authority.</p> <p>In section 4, <i>for the words and figures</i> outside the limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, <i>substitute</i> outside the area subject to their authority.</p>
1885	3 ¹	The Bengal Local Self-Government Act of 1885.	<p>In section 45, <i>for</i> such district <i>substitute</i> any district in which this Act is in force.</p> <p>In the reference to section 9 of Bengal Act 9 of 1880 in the second Schedule <i>for</i> 111 <i>substitute</i> 109.</p>
1887	4 ¹	The Chittagong Port Commissioners Act, 1887.	In section 39, clause (b), <i>for</i> 32 <i>substitute</i> 34.
1890	2 ¹	Vaccination (amending Bengal Act 5 of 1880).	In sections 2 and 3, <i>after</i> Suburbs <i>insert</i> of Calcutta.
	3 ¹	The Calcutta Port Act, 1890 ...	In section 30, <i>for</i> the three next succeeding sections <i>and</i> in section 34 <i>for</i> any of the three last preceding sections <i>substitute</i> section 31, section 32 or section 33.

THE SECOND SCHEDULE—*concl'd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

PART III.—BENGAL ACTS—*concl'd.*

1890	3	The Calcutta Port Act, 1890 — <i>concl'd.</i>	In section 94, <i>for</i> vessels <i>substitute</i> vessel.
1894	4 ¹	Municipalities	In section 34, <i>for</i> Municipality <i>substitute</i> Municipalities.
1899	1 ¹	The Bengal General Clauses Act, 1899.	In section 3, clause (6), <i>after</i> <i>under</i> <i>insert</i> the Indian Councils Act, 1861, or. In section 25 <i>before the word</i> order <i>wherever it occurs, insert the word</i> appointment, <i>and before the word</i> issued, <i>wherever it occurs, insert the words</i> made or

PART IV.—BURMA ACT.

1898	1 ²	The Burma General Clauses Act, 1898	In section 20, <i>before the word</i> order, <i>in each of the places in which it occurs, insert</i> notification. <i>In section 21, for</i> make <i>substitute</i> issue <i>notifications</i> , <i>between the words</i> any <i>and</i> orders <i>insert</i> notifications, <i>and for</i> made <i>substitute</i> issued <i>In section 24, before the word</i> order, <i>in each of the places in which it occurs, insert</i> appointment, notification; <i>and before the word</i> issued, <i>in each of the places in which it occurs, insert</i> made or
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PART V.—REGULATION MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 & 34 VICT., c. 3).

1874	9 ²	The Arakan Hill District Laws Regulation, 1874.	In the first column of the schedule for 2 of 1857 <i>substitute</i> 11 of 1857.
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THE THIRD SCHEDULE.

REPEALS.

(See section 4.)

(Omitted, as being spent.)

ACT 4 OF 1908

[THE CORONERS (AMENDMENT) ACT, 1908].¹

(14th February, 1908.)

1 of 1871
3 of 1900

An Act further to amend the Coroners Act, 1871,² and the Prisoners Act, 1900.³

Whereas it is expedient further to amend the Coroners Act, 1871² and the Prisoners Act, 1900³; It is hereby enacted as follows:—

1. This Act may be called the Coroners (Amendment) Act, 1908. Short title

2. In section 9 of the said Act,⁴ for the word “buried” the words “disposed of” shall be substituted. Amendment of section 9, Act 4 of 1871.

3. In section 11 of the said Act, for the words “where the first was insufficient” the words “where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition” shall be substituted. Amendment of section 11, Act 4 of 1871.

4. To section 15 of the said Act the following shall be added, namely:— Addition of proviso to section 15, Act 4 of 1871.

[Printed *ante*, p. 463.]

5. In section 17 of the said Act, for the words and figures “Act No. 15 of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them*),” the words and figures “Part IX of the Prisoners Act, 1900,” shall be substituted. Amendment of section 17, Act 4 of 1871.

6. After section 18 of the said Act the following shall be inserted, namely:— Addition of new section 18A to Act 4 of 1871.

18A. [Printed *ante*, p. 464.]

7. To section 21 of the said Act the following shall be added, namely:— Addition to section 21, Act 4 of 1871.

[Printed *ante*, p. 465.]

8. For section 25 of the said Act the following shall be substituted, namely:— Substitution of new section 25, Act 4 of 1871.

25. [Printed *ante*, p. 465.]

9. For section 26 of the said Act the following shall be substituted, namely:— Substitution of new section 26, Act 4 of 1871.

26. [Printed *ante*, p. 465.]

¹ LEGISLATIVE PAPERS.—For Report of the Select Committee, see *Gazette of India*, 1908, Pt. V, p. 31, and for Proceedings in Council, see *ibid*, Pt. VI, p. 12.
² LOCAL EXTENT.—Since this Act has no local extent clause, sections 2 to 12, must be taken to extend, like Act 4 of 1871 (which they amend), to Calcutta and Bombay only. Section 13 extends, like Act 3 of 1900, to the whole of British India.

³ Printed *ante* p. 461.

⁴ Printed in the General Acts, 1898-03, Ed. 1909, p. 488.

⁵ i.e., the Coroners Act, 1871.

(Secs. 10-13.)

Repeal of
section 27,
Act 4 of
1871.

10. Section 27 of the said Act is hereby repealed.

Amendment
of section 28,
Act 4 of
1871.

11. In section 28 of the said Act, for the word "burial" the word "disposal" shall be substituted.

Amendment
of Second
Schedule,
Act 4 of
1871.

12. In the Second Schedule of the said Act, for the words "on view of the body of A. B. then and there lying dead" the words "in the case of A. B. deceased" shall be substituted.

Amendment
of Act 3
of 1900,
section 11

13. In section 11¹ of the Prisoners Act, 1900, for the words "Justice of the Peace or Coroner" the words "or Justice of the Peace" shall be substituted. 3 of 1900

¹ Printed in the General Acts, 1898-03, Ed. 1909, p. 496.

ACT 11 OF 1908

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT 1908].¹

(11th September, 1908.)

6 of 1901

An Act to amend the Assam Labour and Emigration Act, 1901.

Whereas it is expedient to amend the Assam Labour and Emigration Act, 1901;² It is hereby enacted as follows:—

1. This Act may be called the Assam Labour and Emigration (Amendment) Act, 1908. Short title

6 of 1901

2. For section 91 of the Assam Labour and Emigration Act, 1901; the following shall be substituted, namely:—

91. [Printed *ante*, p. 678.]

3. For section 218 of the said Act the following shall be substituted, namely:—

218. [Printed *ante*, p. 716.]

Substitution
of new sec-
tion for
section 91,
Act 6, 1901
Substitution
of new sec-
tion for
section 218,
Act 6 of
1901

¹LEGISLATIVE PAPERS.—For Statement of Object and Reasons, see Gazette of India, 1908, Pt. V, p. 283, and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 112 and 140.

²LOCAL EXTENT.—The local extent of this Act is the same as that of Act 6 of 1901, as to which see foot-note 3 on p. 653 *ante*. The application of the Act is limited in the Chittagong Hill tracts by the Chittagong Hill-tracts Regulation, 1900 (I of 1900) s. 1 (2), *post*, p. 790.

³Printed *ante*, p. 653.

ACT 10 OF 1910

(THE INDIAN MUSEUM ACT, 1910)¹.

(18th March, 1910.)

An Act to consolidate and amend the law relating to the Indian Museum.

Whereas it is expedient to consolidate and amend the law relating to the Indian Museum; It is hereby enacted as follows:—

PRELIMINARY.

1. (1) This Act may be called the Indian Museum Act, 1910. Short title and commencement

(2) It shall come into force on such date² as the Governor-General in Council, by notification in the Gazette of India, may direct.

Incorporation of the Trustees.

2. (1) The Trustees of the Indian Museum (hereinafter called the Trustees) shall be— Constitution and incorporation of the Trustees of the Indian Museum

(a) the six persons for the time being performing the duties of the following offices, namely:—

- (i) the Accountant-General of Bengal;
- (ii) the Principal, Government School of Art, Calcutta;
- (iii) the Director, Geological Survey of India;
- (iv) the Superintendent of the Zoological and Anthropological Section of the Museum;
- (v) the Director-General of Archaeology; and
- (vi) the Officer in charge of the Industrial Section of the Museum;

(b) one other person to be nominated by the Governor-General in Council;

(c) three other persons to be nominated by³ [the Governor of Fort William in Bengal];

(d) one other person to be nominated by the Council of the Asiatic Society of Bengal;

¹ LEGISLATIVE PAPERS.—For Report of Select Committee, see Gazette of India, 1910, Pt. VI, p. 65; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 91, 159 and 284.

LOCAL EXTENT.—This Act applies only to the Indian Museum, which is situated in Calcutta.

² i.e., the 1st June, 1910—see Gazette of India, 1910, Pt. I, p. 411.

³ The words "the Governor of Fort William in Bengal", in clause (c), were substituted for the words "the Lieutenant-Governor of Bengal" by the Bengal, Bihar and Orissa and Assam Laws Amendment Act, 1912 (7 of 1912), s. 7, and Sch. E, *post*, pp. 776 and 778.

(Secs. 3-6.)

- (e) one other person to be nominated by the Bengal Chamber of Commerce ;
- (f) one other person to be nominated by the British Indian Association, Calcutta ;
- (g) one other person to be nominated by the Syndicate of the Calcutta University ; and
- (h) three other persons to be nominated by the Trustees.

(2) The Trustees shall be a body corporate, by the name of "The Trustees of the Indian Museum," with perpetual succession and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act.

(3) The nominated Trustees shall, save as herein otherwise provided, hold office for a period of three years :

Provided that the authority nominating a Trustee may extend his term of office for one or more like periods.

Minimum
number
of Trustees
and quorum

3. (1) The powers of the said body corporate may only be exercised so long and so often as there are nine members thereof.

(2) The quorum necessary for the transaction of business at a meeting of the Trustees shall not be less than six.

Power to
appoint new
Trustees

4. If a nominated Trustee—

- (a) die, or
- (b) is absent from the meetings of the Trustees for more than twelve consecutive months, or
- (c) desires to be discharged, or
- (d) refuses or becomes incapable to act, or
- (e) is appointed to perform the duties of any office specified in section 2, clause (a).

the authority which nominated the Trustee may nominate a new Trustee in his place.

Vacation of
office by
existing
Trustees

5. From the commencement of this Act the term of office of all persons appointed to be Trustees under the Indian Museum Act, 1876,¹ shall cease.

22 of 1876

Property and powers of the Trustees.

Property
vested in
or placed
under the
control of
the Trustees.

6. (1) All the property, whether moveable or immoveable, which at the commencement of this Act is held by the Trustees of the Indian Museum constituted by the Indian Museum Act, 1876,¹ on trust for the purposes of the said Museum shall, together with any such property which may hereinafter be given, bequeathed, transferred or acquired for the said purposes, vest in the Trustees of the Indian Museum constituted by this Act on trust for the purposes of the said Museum :

22 of 1876

Provided that the Trustees may expend the capital of any portion of such property which may consist of money on the maintenance, improvement and enlargement of the collections

¹ Act 22 of 1876 is repealed by section 17 of the present Act.

of 1910.]

(Secs. 7-9.)

deposited in, presented to or purchased for the said Museum or otherwise for the purposes of the same as they may think fit.

(2) The Trustees shall have the exclusive possession, occupation and control, for the purposes of such trust, of the land specified in the Schedule, including any buildings which may have been, or may hereafter be, erected thereon, other than those portions thereof which have been set apart by the Trustees for the records and offices of the Geological Survey of India.

7. Subject to the provisions of any by-laws made in this behalf, the Trustees may, from time to time,—

Power to
Trustees
to exchange,
sell and
destroy
articles in
collections

- (a) deliver, by way of loan, to any person the whole or any portion of, or any article contained in, any collection vested in them under this Act;
- (b) exchange or sell duplicates of articles contained in any such collection and take or purchase, in the place of such duplicates, such articles as may in their opinion be worthy of preservation in the Museum;
- (c) present duplicates of articles contained in any such collection to other Museums in British India; and
- (d) remove and destroy any article contained in any such collection.

8. (1) The trustees may from time to time, with the previous sanction of the Governor-General in Council, make by-laws, consistent with this Act, for any purpose necessary for the execution of their trust.

Power to
Trustees
to make
by laws.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the summoning, holding and adjournment of general and special meetings of the Trustees;
- (b) the securing of the attendance of Trustees at such meetings;
- (c) the provision and keeping of minute-books and account-books;
- (d) the compiling of catalogues;
- (e) the lending of articles contained in the collections vested in the Trustees;
- (f) the exchange and sale, and the presentation to other Museums in British India, of duplicates of articles contained in such collections;
- (g) the removal and destruction of articles contained in such collections; and
- (h) the general management of the Museum.

9. Subject to such regulations and conditions as may be prescribed by them in this behalf, the Trustees shall appoint such officers and servants as may be necessary or proper for the

(Secs. 10-12.)

care or management of the trust-property, and may assign to such officers and servants such pay as they may think fit:

Provided that—

(a) no officer shall be appointed—

(i) if such officer is, at the date of his appointment, in India, without the approval of the Governor General in Council, or

(ii) if such officer is not then in India, without the approval of the Secretary of State for India in Council; and

(b) no new office shall be created, and no salaries of officers shall be altered, without the previous sanction of the Governor General in Council.

Duties of the Trustees.

Trustees to
furnish
annual re-
ports and
accounts

10. (1) The Trustees shall furnish on or before the first day of December in each year—

(a) to the Government of India a report of their several proceedings for the previous financial year, and

(b) to such auditor as the Governor General in Council appoints in this behalf, accounts of all moneys expended by the Trustees during the previous financial year, supported by the necessary vouchers.

(2) The Trustees shall cause such report and accounts to be published annually for general information.

Collections
of Asiatic
Society to
be kept
distinguished
in the
Museum

11. (1) The Trustees shall cause every article in the collections in the said Indian Museum formerly belonging to the Asiatic Society of Bengal and all additions that may hereafter be made thereto otherwise than by purchase under section 6, to be marked and numbered and (subject to the provisions contained in sections 7 and 16) to be kept and preserved in the said Museum with such marks and numbers.

(2) An inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the Trustees and delivered to the said Society, and another copy shall be signed by the Council of the said Society and delivered to the Trustees, and shall be kept by them along with the inventory delivered to the predecessors in office of the Trustees when the said collections were deposited in the said Museum.

Articles
received
in exchange
or purchased
and moneys
realised from
sale to be
held or trust

12. All objects taken in exchange and articles purchased under section 7 and all moneys realised from sales made in accordance with the terms of the same section shall be held on trust and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared.

(Secs. 13-17.)

of 1910.]

Supplemental Provisions.

15 of 1860

13. All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code¹; and, so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules which under the Civil Service Regulations for the time being in force would be applicable if their service was service under Government.

Officers under Act to be public servants and subject to Civil Service Regulations

14. Notwithstanding anything hereinbefore contained, the Trustees may, if they think fit, with the previous sanction of the Governor General in Council and subject in each case to such conditions as he may approve and to such rules as he may prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trust under this Act and keep and preserve such collections either in the Indian Museum or elsewhere:

Power to Trustees to keep collections not belonging to them.

Provided that if the trust constituted by this Act is at any time determined, any such collections shall not by reason of their then being in the Indian Museum become the property of His Majesty.

15. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of the whole or any part of the property described in the Schedule to such person as the Lieutenant-Governor of Bengal² may appoint in that behalf.

Power to Trustees to part with certain property in their possession

16. If the trust constituted by this Act is at any time determined,—

Property in collections on determination of trust

(a) the collections and additions mentioned in section 11 shall become the property of the said Asiatic Society or their assigns, and

(b) all the other collections then in the said Indian Museum shall, save as otherwise provided by section 14, become the property of His Majesty.

22 of 1876
4 of 1887

17. The Indian Museum Act, 1876, and the Indian Museum Act, 1887, are hereby repealed.

Repeals

THE SCHEDULE.

(See sections 6 and 15.)

Land bounded—

on the north side by the premises No. 2, Sudder Street, and by Sudder Street;

¹ Printed in General Acts, 1884-67, Ed. 1909, p. 248.² Now the Governor in Council of Port William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912) s. 8, and Sch. D, item 1, *post*, pp. 774 and 776.

(Schedule.)

on the west side by Chowringhee Road and by the premises No. 29, Chowringhee Road (occupied by the Bengal United Service Club);
on the south side by the premises No. 29, Chowringhee Road, by Kyd Street, and by the premises No. 4, Chowringhee Lane, and
on the east side by the premises No. 15, Kyd Street, and the premises Nos. 4, 3, 2 and 1, Chowringhee Lane,
together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

ACT 1 OF 1911

[THE OPIUM (AMENDMENT) ACT, 1911]¹

(5th January, 1911.)

An Act further to amend the Opium Act, 1857.²

Whereas it is expedient further to amend the³ Opium Act, 1857²; It is hereby enacted as follows:—

1. This Act may be called the Opium (Amendment) Act, 1911. Short title

2. In section 3 of the Opium Act, 1857⁴, for the words “ in Calcutta ” the words “ of the United Provinces of Agra and Oudh ” shall be substituted. Amendment of Act 13 of 1857, section 3

3. Every order or direction issued, regulation made, sanction given or other thing lawfully done under the said Act by the Board of Revenue in Calcutta shall, after the commencement of this Act, be deemed to have been issued, made, given or done by the Board of Revenue of the United Provinces of Agra and Oudh. Continuance of orders issued by Board of Revenue, Calcutta

4. Any order or direction, regulation, sanction or other thing purporting to have been issued, made, given or done under the said Act by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act is hereby ratified and confirmed. Ratification of orders already issued by Board of Revenue, United Provinces

¹ LEGISLATIVE PAPERS.—For Proceedings in Council, *see* Gazette of India, 1911, Pt. VI, p. 35.

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 13 of 1857, as to which *see* foot-note on p. 361, *ante*. The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2) *post*, p. 790.

² Printed *ante*, p. 361.

ACT 16 OF 1911

[THE BENGAL, AGRA AND ASSAM CIVIL COURTS (AMENDMENT)
Act, 1911].¹

(18th September, 1911).

An Act further to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.²

12 of 1887 Whereas it is expedient further to amend the Bengal,
North-Western Provinces and Assam Civil Courts Act, 1887²;
It is hereby enacted as follows:—

1. This Act may be called the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911. Short title

12 of 1887 2. In sub-section (I) of section 1 of the Bengal, North-
Western Provinces and Assam Civil Courts Act, 1887,² for the
words “North-Western Provinces” the word “Agra” shall be
substituted. Amendment
of section (I),
Act 12,
1887

3. In sub-section (I) of section 8 of the said Act, the words
“and with the previous sanction of the Governor General in
Council” are hereby repealed. Amendment
of section 8(I),
Act 12,
1887.

4. In section 25 of the said Act, for the words “one
hundred rupees” the words “two hundred and fifty rupees”
shall be substituted. Amendment
of section
25, Act 12,
1887

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 113; for Proceedings in Council, see *ibid*, Pt. VI, pp. 634, 654

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 12 of 1887, as to which see foot-note¹ on p. 611, *ante*. The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), *post* p. 790

² Printed *ante*, p. 611

ACT 18 OF 1911

[THE CALCUTTA IMPROVEMENT (APPEALS) ACT, 1911].¹

(23rd September, 1911)

Ben. Act 5 of
1911

An Act to modify certain provisions of the Calcutta Improvement Act, 1911.

Whereas it is expedient to modify the provisions of the Calcutta Improvement Act, 1911,² so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act; It is hereby enacted as follows:—

1. This Act may be called the Calcutta Improvement (Appeals) Act, 1911. Short title

2. In this Act,—

Definitions

(1) "Court" means the High Court of Judicature at Fort William in Bengal; and

(2) "Tribunal" has the same meaning as in the Calcutta Improvement Act, 1911.³

3. (1) Notwithstanding anything contained in the Calcutta Improvement Act, 1911,⁴ an appeal shall lie to the Court in any of the following cases, namely:— Appeal from awards of the Tribunal

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of section 77 of the said Act;

(b) where the decision is that of the Tribunal, and

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(i) the Court grants special leave to appeal;

Provided that the Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is five thousand rupees or upwards.

(2) An appeal under clause (b) of sub-section (1) shall only lie on the following grounds, namely:—

(i) the decision being contrary to law or to some usage having the force of law;

(ii) the decision having failed to determine some material issue of law or usage having the force of law;

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 118; for Proceedings in Council, see *ibid*, Pt. VI, pp. 635, 636 and 680 to 687.

² LOCAL EXTENT.—The local extent of this Act is the same as that of Ben. sAct 5 of 1911, to which see foot-note to the latter Act, in Vol. III of this Code.

³ Printed in Vol. III of this Code.

[Act 18 of 1911.]

(iii) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

Procedure in
such appeals.

4. Subject to the provisions of section 3, the provisions of the Code of Civil Procedure, 1908¹, with respect to appeals from original decrees shall, so far as may be, apply to appeals under this Act. 5 of 1908

Execution of
orders of
Court.

5. The Chief Judge of the Court of Small Causes of Calcutta shall, on application, execute any order passed by the Court on appeal as if it was a decree made by himself.

Period of
limitation for
such appeals.

6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908¹ within the meaning of No. 156² of the First Schedule to the Indian Limitation Act, 1908. 5 of 1908
9 of 1908

¹ Printed in General Acts, 1904-08, Ed. 1909, p. 141

² Printed in General Acts, 1904-08, Ed. 1909, p. 505

ACT 7 OF 1912

(THE BENGAL, BIHAR AND ORISSA AND ASSAM LAWS ACT,
1912).¹

(26th March, 1912.)

An Act to make certain provisions regarding the application of the law in force in the Presidency of Fort William in Bengal, [the Province of Bihar and Orissa and the Province of Assam.]

Whereas a Governor and an Executive Council have been appointed² for the Presidency of Fort William in Bengal;

And whereas, by Proclamation published under Notification No. 290,³ dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April, 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal;

[And whereas, by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General, with the sanction of His Majesty, has been pleased to constitute the territory mentioned in Schedule B to be, for the purposes of the Indian Councils Act, 1861⁴, a Province to which the provisions of that Act touching the making of Laws and Regulations for the peace and good government of the Presidencies of Fort St. George and Bombay shall be applicable, and to direct that the said Province shall be called the Province of Bihar and Orissa, and further to appoint a Lieutenant-Governor of that Province;

And whereas, by Proclamation published under Notification No. 291, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule C, which was formerly included within the Province of Eastern Bengal and Assam, and to form the same into a Chief Commissionership, to be called the Chief Commissionership of Assam, and further to appoint a Chief Commissioner therefor;]

21 & 25 Vict.,
c. 67

¹ LEGISLATIVE PAPERS.—For Proceedings in Council, see Gazette of India, 1912, Pt. VI pp. 504 to 596.

LOCAL EXTENT.—This Act extends to the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam—see the title and preamble. It applies to the Chittagong Hill-tracts—see Sch. A, Pt. 1, post, p. 776.

² For proclamation and notification of appointments, see pages 1 and 3 of the Calcutta Gazette Extraordinary of the 1st April, 1912.

³ Published on page 2 of the Gazette of India Extraordinary of the 22nd March, 1912.

⁴ Printed in the Collection of Statutes relating to India, Ed. 1899, Vol. I, p. 341.

(Secs. 1-5.)

And whereas it is expedient to make certain provisions regarding the application of the law in force in the territories affected by the said Proclamations ;

It is hereby enacted as follows :—

Short title
and com-
mencement

1. (1) This Act may be called the Bengal, Bihar and Orissa and Assam Laws Act, 1912; and

Saving of
territorial
application of
enactments

(2) It shall come into force on the first day of April, 1912.

2. The Proclamations referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment, notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under a particular administration.

Construction
of certain
references in
enactments
in force in
territory
mentioned in
Schedules A,
B and C

3. All enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments, which, immediately before the commencement of this Act, were in force in, or prescribed for, any of the territory mentioned in Schedule A, [Schedule B or Schedule C], shall, in their application to that territory, be construed as if references therein to the authorities, territory or Gazettes mentioned in column 1 of Schedule D were references to the authorities, territory or Gazettes respectively mentioned or referred to opposite thereto in column 2 of that Schedule :

[*Provided that the Governor General in Council may, by notification in the Gazette of India, direct that any function of the Chief Commissioner of Assam under any such enactment, notification, order, scheme, rule, form or by-law shall be discharged by the Governor General in Council and not by the said Chief Commissioner.*]

Constitution
of Board of
Revenue in
Bihar and
Orissa

4. [There shall be a Board of Revenue for the Province of Bihar and Orissa, to which the provisions of the Bengal Board of Revenue Regulation, 1822¹, and the Bengal Board of Revenue Act, 1850², shall, so far as may be, apply.]

3 of 1822

44 of 1850

Powers to
Courts and
Local
Governments
for facilitating
application
of enact-
ments.

5. For the purpose of facilitating the application to the territory, or any part thereof, mentioned in Schedule A, [Schedule B or Schedule C] of any enactment passed before the commencement of this Act, or of any notification, order, scheme, rule, form or by-law made under any such enactment,—

(a) any Court may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule, form or by-law with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court; and

(b) the Local Government may, by notification in the local official Gazette, direct by what officer any authority or power shall be exercisable; and any such notification shall have effect as if enacted in this Act.

¹ Printed ante, p. 209

² Printed ante, p. 337.

of 1912.]

(Secs. 6-8.—Schs. A. B.)

6. Nothing in this Act shall affect any proceeding which, at the commencement thereof, is pending in or in respect of any of the territory mentioned in Schedule A, [*Schedule B or Schedule C*]; and every such proceeding shall be continued as if this Act had not been passed.

Pending Proceedings.

7. The enactments specified in Schedule E are hereby amended to the extent and in the manner specified in the fourth column thereof.

Amendments of Acts.

7 of 1905

8. The Bengal and Assam Laws Act, 1905, is hereby repealed.

Repeal

SCHEDULE A.

(See sections 3, 5 and 6.)

THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

Part I.

The Chittagong Division, comprising the districts of Chittagong, the Chittagong Hill-tracts, Noakhali and Tippera;

the Dacca Division, comprising the districts of Bakarganj, Dacca, Faridpur and Mymensingh;

the Rajshahi Division, comprising the districts of Bogra, Dinajpur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur.

Part II.

The Burdwan Division, comprising the districts of Bankura, Birbhum, Burdwan, Hooghly, Howrah and Midnapur;

the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Murshidabad, Nadia and the 24-Parganas; and

the district of Darjeeling.¹

[SCHEDULE B.

The Province of Bihar and Orissa.

The districts of Bhagalpur, Monghyr, Purnea and the Mithal Parganas, in the Bhagalpur Division;

the Patna Division, comprising the districts of Gaya, Patna and Shahabad;

the Tirhut Division, comprising the districts of Champaran, Darbhanga, Muzaffarpur and Saran;

the Chota Nagpur Division, comprising the districts of Hazaribagh, Manbhum, Palamau, Ranchi and Singhbhum; and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Simbalpur.]

¹ The district of Darjeeling has been transferred to the Rajshahi Division—see Notification No. 410, dated the 1st April, 1912, in the Gazette of India Extraordinary of that date.

(Schs. C. D.)

[SCHEDULE C.

The Province of Assam.

The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar; and the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet.]

SCHEDULE D.

(See section 3.)

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal)

1	2
References.	Constructions
1. The Local Government of Bengal ...	} The Governor in Council of Fort William in Bengal.
2. The Local Government of Eastern Bengal and Assam.	
3. The Board of Revenue for Eastern Bengal and Assam.	
4. The Chief Controlling Revenue-Authority.	} The Board of Revenue for Bengal
5. The Chief Revenue-Authority ...	
6. All officers and official bodies not mentioned in the foregoing clauses 2 to 5 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Part I of Schedule A.	(a) The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal; or (b) such other officers or official bodies, respectively, as the Governor in Council of Fort William in Bengal may, by notification in the local official Gazette, direct.
The local official Gazette (English or Vernacular, as the case may be) of the Government of Eastern Bengal and Assam.	
	The local official Gazette (English or Vernacular ¹ , as the case may be) of the Government of Bengal

¹ The Vernacular Gazette of the Government of Bengal have been discontinued since the 1st April, 1912.

of 1912.]

(Sch. D.)

SCHEDULE D—*contd.*

Part II—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa)

1	2
References.	Constructions.
8 The Local Government of Bengal.	The Local Government of Bihar and Orissa
9 The Local Government of the Central Provinces.	
10 The Board of Revenue for Bengal	
11 The Chief Controlling Revenue-Authority	The Board of Revenue for Bihar and Orissa
12 The Chief Revenue-Authority.	
13 The Court of Wards of the Central Provinces	The High Court of Judicature at Fort William in Bengal
14 The Superintendent of Government Wards in the Central Provinces.	
15 The Judicial Commissioner of the Central Provinces	Such officers or official bodies, respectively, as the Local Government may, by notification in the local official Gazette, direct.
16 All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Bengal generally, inclusive of the territory mentioned in Schedule B.	
17 The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces.	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bihar and Orissa]

[Part III—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam).]

1	2
References.	Constructions.
18 The Local Government of Bengal.	The Chief Commissioner of Assam.
19. The Local Government of Eastern Bengal and Assam.	
20. The Board of Revenue for Bengal.	
21. The Board of Revenue for Eastern Bengal and Assam.	
22. The Chief Controlling Revenue-Authority.	
23. The Chief Revenue-Authority.	

(Sch. E.)

SCHEDULE D—*concl'd.*

Part III—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam)—concl'd.

1	2
References.	Constructions
24. All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C.	Such officers or official bodies, respectively, as the Chief Commissioner of Assam may, by notification in the local official Gazette, direct.
25. The Chief Commissionership of Assam.	The territory mentioned in Schedule C.
26. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam	The local official Gazette (English or Vernacular, as the case may be) of the Chief Commissionership of Assam]

SCHEDULE E.

(See section 7.)

1	2	3	4
Year.	No.	Short title.	Amendments
1877	I	The Specific Relief Act, 1877...	In section 15 (f), ¹ for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor in Council of Fort William in Bengal"
1882	XV	The Presidency Small Cause Courts Act, 1882	In section 93, ² for the words "and Bombay" substitute the words "Bombay and Fort William in Bengal" and omit the words "the Lieutenant-Governor of Bengal."
1903	X	The Victoria Memorial Act, 1903.	In section 2 (1) (b), ³ for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."
1910	X	The Indian Museum Act, 1910.	In section 2 (1) (c), ⁴ for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."

¹ Printed in the General Acts, 1868-78, Ed. 1909, p. 551.² Printed in the General Acts, 1879-86, Ed. 1909, p. 424.³ Printed in the General Acts, 1898-03, Ed. 1909, p. 611.⁴ Printed *ante*, p. 761.

PART III.—REGULATIONS MADE UNDER THE GOVERNMENT OF
INDIA ACT, 1870 (33 & 34 VICT., C. 3), IN FORCE IN THE
PRESIDENCY OF FORT WILLIAM IN BENGAL.

REGULATION 5 OF 1873

(BENGAL EASTERN FRONTIER REGULATION, 1873)¹.

(27th August, 1873)

**A Regulation for the peace and government of certain districts
on the Eastern Frontier of Bengal.**

[Whereas the Secretary of State for India in Council has ^{Preamble} by Resolution in Council, declared the provisions of Act 33 Vict., cap. 3,² section 1, to be applicable to the districts of Kāmrap, Darrang, Nowgong, Sibsāgar, Lakhimpur, Garo Hills,³ Khāsi and Jaintiā Hills, Nāgā Hills, Cachar • • •⁴];

And whereas the Lieutenant-Governor of Bengal has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same, for the peace and government of the said districts;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

The following Regulation is now published in the Gazette of India, and will be published in the Calcutta Gazette, and will thereupon have the force of law, under the 33rd of Victoria, chapter 3.⁵

1. [This Regulation shall extend to the districts named in ^{Local extent.} the preamble, and shall come into force on the 1st of November, 1873.]

2. It shall be lawful for the Local Government of Bengal,⁶ with the previous sanction of the Governor General in Council, to prescribe, and from time to time to alter, by notification ^{Power to prescribe and alter inner line.}

¹ SHORT TITLE.—This short title was given by Notification No. 13, dated the 15th October 1875, published in the Gazette of India, 1875, Pt. I, p. 529.

² LOCAL EXTENT.—The only parts of Bengal in which this Regulation is in force are the districts of Jalpaiguri and Darjeeling, to which it was extended by Notification No. 605 P., dated the 25th February, 1904—see V.C. IV, Pt. IV.

³ The Government of India Act, 1870. It is printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 451.

⁴ Regulation 5 of 1873, so far as it applies to the Garo Hills District, was repealed by the Repealing Act, 1897 (5 of 1897).

⁵ The words "and Chittagong Hills," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, *post*, pp. 774 and 776.

⁷ For a notification issued under paragraph 1 of section 2, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. V.

(Secs. 3-6.)

in the Calcutta Gazette, a line to be called "The Inner Line" in each or any of the above-named districts¹.

The Local Government may, by notification² in the Calcutta Gazette, prohibit all British subjects, or any class of British subjects, or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district, or of such other officer as he may authorize to grant such pass; and the Local Government may, from time to time, cancel or vary such prohibition.

Penalty for
crossing
line
without
pass

3. Any British subject or other person so prohibited, who, after "The Inner Line" has been prescribed and notified in accordance with section 2 of this Regulation, goes beyond such line without a pass, shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees 100 for the first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment for a term not exceeding three months, or to both, for each subsequent offence.

Power to
prescribe
form
of pass

4. The Local Government may from time to time prescribe, by notification² in the Calcutta Gazette, a form of pass for each district, and may in such form fix such restrictions or conditions as the Local Government may deem fit, and may require the payment of such dues and fees for such passes as to the Local Government may seem proper.

Any holder of such a pass shall, on breach of any such restriction or condition, be liable on conviction to a fine not exceeding rupees 100 for a first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment, which may extend to three months, or to both, for each subsequent offence.

Confiscation
of jungle
product
found
with
offender.

5. Any rubber, wax, ivory or other jungle-product found in the possession of any person convicted of an offence under this Regulation may be confiscated to Government by an order to be passed at the time of conviction by the Magistrate.

Power to
authorize
arrest

6. The chief executive officer of any district comprised in any notification as aforesaid may, subject to the approval of the Local Government, authorize, by a written instrument under his hand, any public servant to arrest and bring before him with the least practicable delay—

firstly, any person prohibited from crossing "The Inner Line" prescribed for such district, if such person shall be found beyond the line and when asked to produce his pass shall refuse or be unable so to do:

secondly, any person to whom a pass may have been granted, and who has committed any infraction of its conditions.

¹ Now read (in Bengal) the districts of Jalpaiguri and Darjeeling.

² For notifications issued under section 2 (paragraph 2) and section 4, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. V

of 1873.]

(Secs. 7-11.)

7. It shall not be lawful for any British subject or other person, not being a native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said "Inner Line" without the sanction of the Local Government or such officer as the Local Government shall appoint in this behalf.

Aquisition
of interest
in land
by other
than
Natives of
districts
comprised in
preamble

Any interest so acquired may be dealt with as the Local Government or its said officer shall direct.

The Local Government may also, by notification in the Calcutta Gazette, extend the prohibition contained in this section to any class of persons, Natives of the said districts, and may from time to time in like manner cancel or vary such extension.

8 to 10. (*Killing or capturing elephants.*) *Rep. by Reg. 1 of 1880.*

11. Offences against this Regulation may be tried by Magistrates of the first or second class, and shall be bailable.

Jurisdiction
as to
offences

REGULATION 3 OF 1881

(THE CHITTAGONG HILL-TRACTS FRONTIER POLICE REGULATION, 1881)¹.

(7th December, 1881.)

The Chittagong Hill-tracts Frontier Police Regulation, 1881.

Whereas the Frontier Police of the Hill-tracts of Chittagong enrolled under Act No. 5 of 1861² (*for the regulation of Police*) perform services of a quasi-military character; and whereas the provisions of the said Act, and the orders and rules framed under section 12 thereof, have been found insufficient for the maintenance of discipline among such police, and it is therefore expedient to make further provision for the maintenance of discipline among them; It is hereby enacted as follows:—

1. This Regulation may be called the Chittagong Hill-tracts Frontier Police Regulation, 1881. Preamble

It applies to all persons now or hereafter appointed under the said Act No. 5 of 1861² to be Frontier Police-officers and posted to the Hill-tracts of Chittagong. Local extent.

(Commencement.) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

2. In this Regulation, unless there is something repugnant in the subject or context,— Interpretation-clause.

“active service” means service at the frontier outposts, or against hostile tribes or other persons in the field; “active service”;
³[“Superintendent”] and “District Superintendent” mean the ³[Superintendent] of the Hill-tracts of Chittagong and the District Superintendent of Police within the same tracts, “Superintendent” and “District Superintendent”;
 respectively; and “reason to believe”;

the expressions “reason to believe”, “criminal force”, “assault” and “fraudulently” have the meanings assigned to them respectively in the Indian Penal Code.⁴ “criminal force”, “assault” a “fraudulently”;

3. Any person subject to this Regulation, not being above the rank of *subadar*, who— More heinous offences.

(a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not

¹ LOCAL EXTENT.—This Regulation extends only to the Chittagong Hill-tracts—see s. 1. It is formally included in the Schedule of laws in force in those tracts—see the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), *post*, p. 789. For power to define the boundaries of the tracts, see the Chittagong Hill-tracts Regulation, 1900 (1 of 1900) s. 2(2), *post*, p. 789.

For a similar enactment in force in Eastern Bengal (including the Chittagong Hill-tracts), see the Eastern Bengal and Assam Military Police Act (E. B. & A. Act 3 of 1912), in Vol. III of this Code.

² The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

³ The word “Superintendent” was substituted for the words “Deputy Commissioner” by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), Schedule, Pt. 4, *post*, p. 787.

⁴ Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

(Sec. 4.)

- use his utmost endeavours to suppress the same; or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or
- (b) uses or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty, under any circumstances in which the superior officer is distinguishable as such in any manner; or
 - (c) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend; or
 - (d) directly or indirectly holds correspondence with, or assists or relieves, any persons in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; and

any such person who, while on active service,—

- (e) disobeys the lawful command of his superior officer; or
- (f) deserts the service; or,
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or
- (h) without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or
- (i) quits his guard, picquet party or patrol without being regularly relieved or without leave; or
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessities to camp or quarters, or forces a safe-guard, or without authority breaks into any house or any other place, for plunder, or plunders, destroys or damages any field, garden or other property of any kind; or
- (k) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment, with or without hard labour, for a term which may extend to fourteen years.

Less heinous offences.

4. Any person subject to this Regulation, not being above the rank of *subadár*, who—

- (a) is in a state of intoxication when on or for any duty, or on parade or on the line of march; or
- (b) strikes or attempts to force any sentry; or
- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner or negligently suffers any prisoner to escape; or

of 1881.]

(Sec. 5.)

- (d) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (f) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or
- (g) strikes or otherwise ill-uses any person subject to this Regulation being his subordinate in rank or position; or
- (h) being in command at any post on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority; or
- (i) designedly or through neglect injures or loses or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or regimental necessities, or any such articles entrusted to him or belonging to any other person; or
- (j) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; and any such person who, while not on active service,—
- (l) disobeys the lawful orders of his superior officer; or
- (m) plunders, destroys or damages any field, garden or other property; or
- (n) being a sentry, sleeps upon his post, or quits it without being regularly relieved, or without leave,

shall be punished with imprisonment, with or without hard labour, which may extend to one year.

Corporal
punishment.

5. Any person subject to this Regulation, not being above the rank of *harildar*, who, while on active service, commits any of the offences specified in section 3, or in section 4, clauses (a) to (k), both inclusive, may, in lieu of or in addition to any punishment to which he is liable under those sections be punished with whipping.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

[Reg. 3 of 1881.]

(Secs. 6-9.)

Minor
punishment.

6. In addition to the powers conferred upon them by the rules made under section 12 of the said Act No. 5 of 1861¹ the ² [Superintendent], the District Superintendent, or an Assistant District Superintendent of Police in command of a detachment, may, without a formal trial, award to any person subject to his authority and to whom this Act applies the following punishments for the commission of petty offences against discipline which are not otherwise provided for or which are not of a sufficiently serious nature to call for a prosecution before a Criminal Court (that is to say):—

- (a) imprisonment to the extent of seven days in the quarter-guard, or such other place in or near the lines as may be considered suitable, with forfeitures of all pay and allowances during its continuance,
- (b) punishment-drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to lines.

Any of these punishments may be awarded separately or in combination with the others.

Where person
sentenced to
imprisonment
to be confined.

7. Any person sentenced under this Regulation to imprisonment for a period not exceeding three months shall, when also dismissed the service, be imprisoned in the nearest jail; but, when not also dismissed the service, he may, at the discretion of the convicting officer, subject to revision by the ² [Superintendent], be confined in the quarter-guard or such other place as such officer may consider suitable.

Prosecution
etc., under
other
enactments.

8. Nothing in this Regulation shall prevent any person from being prosecuted under the said Act No. 5 of 1861¹ or any order or rule framed thereunder, or under any other enactment for the time being in force, for any act or omission punishable hereunder, or from being liable under any other enactment to any other or higher penalty than is provided for such act or omission by this Regulation:

Provided that no person shall be punished twice for the same offence.

Magisterial
powers of
police-
officers.

9. Nothing contained in the said Act No. 5 of 1861¹ shall be deemed to prevent the Local Government from investing any police-officer with the powers of a Magistrate for the purpose of inquiring into or trying any offence committed by a police-officer and punishable under the said Act or this Regulation.

¹ The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

² The word "Superintendent" was substituted for the words "Deputy Commissioner" by the Chittagong Hill-tracts Regulation 1900 (1 of 1900), Schedule, Pt. 4, post p. 797.

REGULATION 1 OF 1900

THE CHITTAGONG HILL-TRACTS REGULATION, 1900.

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SCHEDULE—Enactments declared in force in the Chittagong Hill-tracts

REGULATION 1 OF 1900

(THE CHITTAGONG HILL-TRACTS REGULATION, 1900).¹

(17th January, 1900.)

A Regulation to declare the law applicable in, and provide for the administration of, the Chittagong Hill-tracts in Bengal.

Whereas it is expedient to declare the law applicable in, and provide for the administration of, the Chittagong Hill-tracts in Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Chittagong Hill-tracts Regulation, 1900. Short title, extent and commencement
(2) It extends to the Chittagong Hill-tracts; and
(3) It shall come into force on such date² as the Local Government may, by notification in the Calcutta Gazette, appoint.

2. (1) In this Regulation—

- (a) the expression “Chittagong Hill-tracts” means the territories for the time being defined as such by notification under sub-section (2); and Definitions
(b) “Commissioner” means the Commissioner of the Chittagong Division.

(2) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the Calcutta Gazette, define the boundaries of the Chittagong Hill-tracts, and may, in like manner, vary those boundaries.

CHAPTER II.

LAWS.

3. Subject to the provisions of this Regulation, the administration of the Chittagong Hill-tracts shall be carried on in accordance with the rules for the time being in force under section 18. Chittagong Hill-tracts how to be administered

¹ LOCAL EXTENT.—This Regulation extends only to the Chittagong Hill-tracts—see s. 1 (2). For power to define the boundaries of the tracts, see s. 2 (2), on this page.

² The 1st May 1900—see Calcutta Gazette, 1900, Pt. I, p. 360.

(Chapter II.—Laws.—Chapter III.—Appointment and Powers of certain officers.—Secs. 4-7.)

Enactments
applicable in
Chittagong
Hill-tracts

4. (1) The enactments¹ specified in the Schedule, to the extent and with the modifications therein set forth and so far as they are not inconsistent with this Regulation or the rules for the time being in force thereunder, are hereby declared to be in force in the Chittagong Hill-tracts.

(2) No other enactment¹ heretofore or hereafter passed shall be deemed to apply in the Chittagong Hill-tracts:

Provided that the Local Government may, with the previous sanction of the Governor General in Council, by notification in the Calcutta Gazette,—

(a) declare² that any other enactment¹ shall apply in the said tracts, either wholly or to the extent or with the modifications which may be set forth in the notification; or

(b) declare that any enactment which is specified in the schedule, or which has been declared to apply by a notification under clause (a) of this sub-section, shall cease to apply in the said tracts.

CHAPTER III.

APPOINTMENT AND POWERS OF CERTAIN OFFICERS.

Appointment
of Superin-
tendent and
subordinate
officers.

5. The Local Government may, by notification in the Calcutta Gazette,—

(a) appoint any person to be the Superintendent of the Chittagong Hill-tracts; and

(b) appoint so many Assistant Superintendents and other officers as it thinks fit to assist in the administration of the said Tracts.

Investment
of Assistant
Superinten-
dents with
powers of
Superinten-
dent.

6. The Local Government may, by notification in the Calcutta Gazette, invest any Assistant Superintendent with all or any of the powers of the Superintendent under this Regulation, or the rules for the time being in force thereunder, and define the local limits of his jurisdiction.

Chittagong
Hill-tracts
to be a district
under the
Superinten-
dent.

7. The Chittagong Hill-tracts shall constitute a district for the purposes of criminal and civil jurisdiction and for revenue and general purposes, the Superintendent shall be the District Magistrate, and, subject to any orders passed by the

¹ For a chronological table of all enactments now in force in the Chittagong Hill-tracts, see Vol. IV, Pt. VII.

² Section 18 of the Eastern Bengal and Assam General Clauses Act, 1909 (E. B. & A. Act 1 of 1909, in Vol. III of this Code), declares that "Unless and until extended under the Scheduled Districts Act, 1874, or otherwise, no Act, in the absence of special provision to the contrary, shall come into force in the Chittagong Hill-tracts....."

of 1900.]

(Chapter III.—Appointment and Powers of certain Officers.—

Chapter IV.—Arms, Ammunition, Drugs and Liquor.—

Secs. 8-11.)

Local Government under section 6, the general administration of the said Tracts, in criminal, civil, revenue and all other matters, shall be vested in the Superintendent.

8. (1) The Chittagong Hill-tracts shall constitute a sessions division, and the Commissioner shall be the Sessions Judge.

Chittagong Hill-tracts to be a sessions division under the Commissioner

(2) As Sessions Judge the Commissioner may take cognizance of any offence as a Court of original jurisdiction, without the accused being committed to him by a Magistrate for trial, and, when so taking cognizance, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898,¹ for the trial of warrant-cases by Magistrates.

of 1898

9. The Local Government shall exercise the powers of a High Court for the purpose of the submission of sentences of death for confirmation under the Code of Criminal Procedure, 1898,¹ and the Commissioner shall exercise the powers of a High Court for all other purposes of the said Code.

High Court

of 1898

10. The Superintendent may withdraw any criminal or civil case pending before any officer or Court in the Chittagong Hill-tracts, and may either try it himself or refer it for trial to some other officer or Court.

Power to withdraw cases

CHAPTER IV.

ARMS, AMMUNITION, DRUGS AND LIQUOR.

11. (1) The Superintendent may fix the number of firearms and the quantity and description of ammunition which may be possessed by the inhabitants of any village, and may grant permission, either to such inhabitants collectively or to any of them individually, to possess such firearms and ammunition as he may think fit.

Possession of firearms and ammunition and manufacture of gunpowder

(2) All firearms for the possession of which permission is given under sub-section (1), shall be marked and entered in a register.

(3) Any permission granted under sub-section (1) to possess firearms and ammunition may be withdrawn by the Superintendent, and thereupon all firearms and ammunition referred to in such permission shall be delivered to the Superintendent or one of his subordinates.

(4) The Superintendent may grant permission to any person to manufacture gunpowder, and may withdraw such permission.

(5) Whoever, without the permission of the Superintendent, possesses or exports from the Chittagong Hill-tracts any fire-

¹ Printed in the General Acts, 1898-03, Ed. 1909, p. 38

(Chapter IV.—Arms, Ammunition, Drugs and Liquor.—
Secs. 12-14.)

arms or ammunition, or manufactures any gunpowder, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(6) The Superintendent may, with the previous sanction of the Local Government, by order in writing, direct that sub-sections (1), (2), (4) and (5), or any of them, shall not apply in any village specified in the order.

*Daos, spears
and bows and
arrows*

12. (1) The Superintendent may, with the previous sanction of the Commissioner, by order in writing, prohibit all or any of the inhabitants of any village from carrying *daos*, spears and bows and arrows, or any of those weapons, in any tract to be defined in the order, if he is of opinion that such prohibition is necessary to the peace of such tract.

(2) Every order made under sub-section (1) shall specify the length of time during which it shall remain in force.

(3) Whoever disobeys an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

*Intoxicating
drugs.*

13. (1) Whoever, except under and in accordance with a license granted by the Superintendent, imports, exports, manufactures, possesses or sells opium, *ganja* or *charas*, or any preparation thereof, or cultivates any plant from which opium, *ganja* or *charas* can be produced, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in sub-section (1), any person may possess, for domestic use, five *tolas* of opium, *ganja* or *charas*, or of any preparation thereof, without having a license granted by the Superintendent.

*Foreign spirit
and fermented
liquor.*

14. (1) Whoever, except under and in accordance with a license granted by the Superintendent, imports or sells foreign spirit or fermented liquor, shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(2) Nothing in this section applies—

(a) to the import by any person, for his private use and consumption, and not for sale, of any foreign spirit or fermented liquor on which duty has been paid; or

(b) to the sale of any such spirit or liquor legally procured by any person for his private use and consumption and sold by him, or by auction on his behalf, or on behalf of his representatives in interest, upon his quitting a station or after his decease.

Explanation.—For the purposes of this section, the expression "foreign spirit or fermented liquor" means any spirit or fermented liquor not manufactured or produced in the Chittagong Hill-tracts.

of 1900.¹*(Chapter IV.—Arms, Ammunition, Drugs and Liquor.—**Chapter V.—Miscellaneous.—Secs. 15-18.)*

15. Whoever, except under and in accordance with a license granted by the Superintendent, exports or sells spirit or fermented liquor manufactured or produced in the Chittagong Hill-tracts, shall be punishable with imprisonment for a term which may extend to three months, or with fine or with

Locally made
spirit and
fermented
liquor

CHAPTER V.

MISCELLANEOUS

16. The Chittagong Hill-tracts shall be deemed to be a general police-district within the meaning of the Police Act, 1861² and Bengal Act 7 of 1869³ (*an Act to amend the constitution of the Police force in Bengal*), and the Commissioner shall exercise therein all the powers and authority conferred on an Inspector-General of Police.

5 of 1861

17. (1) All officers in the Chittagong Hill-tracts shall be subordinate to the Superintendent, who may revise any order made by any such officer, including an Assistant Superintendent, invested with any of the powers of the Superintendent under section 6.

Control and
revision

(2) The Commissioner may revise any order made under this Regulation by the Superintendent or by any other officer in the Chittagong Hill-tracts.

(3) The Local Government may revise any order made under this Regulation.

18. (1) The Local Government may make rules for carrying into effect the objects and purposes of this Regulation.

Power to
make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) provide for the administration of civil justice in the Chittagong Hill-tracts;

(b) prohibit, restrict or regulate the appearance of legal practitioners in cases arising in the said Tracts;

(c) provide for the registration of documents in the said Tracts;

(d) regulate or restrict the transfer of land in the said Tracts;

(e) provide for the sub-division of the said Tracts into circles, those circles into *taluks*, and those *taluks* into *mauzas*;

¹ Printed in the General Acts, 1834-67, Ed. 1909, p. 378.

² The Bengal Police Act, 1869. It is printed in Vol. 41 of this Code.

(Chapter V.—Miscellaneous.—Secs. 19, 20.)

- (f) provide for the collection of the rents and the administration of the revenue generally in the said circles, *taluks* and *mauzas* through the chiefs, *diwans* and headmen;
- (g) define the powers and jurisdiction of the chiefs, *diwans* and headmen, and regulate the exercise by them of such powers and jurisdiction;
- (h) regulate the appointment and dismissal of *diwans* and headmen;
- (i) provide for the remuneration of chiefs, *diwans*, headmen and village-officers generally by the assignment of lands for the purpose or otherwise as may be thought desirable;
- (j) prohibit, restrict or regulate the migration of cultivating *rai-yats* from one circle to another;
- (k) regulate the requisition by Government of land required for public purposes;
- (l) provide for the levy of taxes in the said Tracts; and
- (m) regulate the procedure to be observed by officers acting under this Regulation or the rules for the time being in force thereunder.

(3) All rules made by the Local Government under this section shall be published in the Calcutta Gazette and on such publication, shall have effect as if enacted by this Regulation.

19. Except as provided in this regulation or in any other enactment for the time being in force, a decision passed, act done or order made under this Regulation or the rules thereunder, shall not be called in question in any Civil or Criminal Court.

20. (*Repeal of certain enactments.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

of 1900.]

(The Schedule.)

THE SCHEDULE.

*(See Section 4.)*ENACTMENTS DECLARED IN FORCE IN THE CHITTAGONG HILL TRACTS ¹

1	2	3	4	5
Year	No.	Short title or subject	Extent of application	Modifications
I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.				
1843	5 ²	The Indian Slavery Act, 1843	So much as may, from time to time, be in force in the district of Chittagong	
1850	18 ²	The Judicial Officers Protection Act, 1850	Ditto ditto	
"	34 ²	The State Prisoners Act, 1850	Ditto ditto	
1857	11 ²	The State Officers Act, 1857	Ditto ditto	
1858	3 ²	The State Prisoners Act, 1858	Ditto ditto	
1860	45 ²	The Indian Penal Code	Ditto ditto	
1861	5 ²	The Police Act, 1861	Ditto ditto	
1864	6 ²	The Whipping Act, 1864	Ditto ditto	For section 6 the following shall be substituted, namely:— "6. Notwithstanding any-whipping in lieu of, or in addition to, any other punishment, in the foregoing sections, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable."
1872	1 ²	The Indian Evidence Act, 1872.	Ditto ditto.	

¹ For a chronological table of all enactments now in force in the Chittagong Hill-tracts, see Vol. IV, Pt. VII.

² Printed in the General Acts, 1824-67, Ed. 1909.

³ Printed in the General Acts, 1868-78, Ed. 1909.

*(The Schedule.)*THE SCHEDULE—*contd.*ENACTMENTS DECLARED IN FORCE IN THE CHITTAGONG HILL-TRACTS—*contd.*

1	2	3	4	5
Year	No	Short title or subject	Extent of application	Modifications.
1877	15	The Indian Limitation Act, 1877	So much as may, from time to time, be in force in the district of Chittagong	
1878	7 ¹	The Indian Forest Act, 1878	Ditto ditto	
1879	6 ²	The Elephants Preservation Act, 1879	Ditto ditto	
1897	10 ³	The General Clauses Act, 1897	Ditto ditto	
1898	5 ⁴	The Code of Criminal Procedure, 1898	Ditto ditto ...	Nothing in the Code shall apply to cases tried by the chiefs, <i>durans</i> or headmen in exercise of the powers conferred upon them by rules made under section 18 of this Regulation
..	6 ⁵	The Indian Post Office Act, 1898	Ditto ditto	

2.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL

1869	7 ³	Police	So much as may, from time to time, be in force in the district of Chittagong.
1899	1 ⁶	<i>The Bengal General Clauses Act, 1899.</i>	<i>Ditto ditto.</i>

¹Printed in the General Acts, 1868-78, Ed. 1909²Printed in the General Acts, 1879-86, Ed. 1909³Printed in the General Acts, 1887-97, Ed. 1909⁴Printed in the General Acts, 1898-03, Ed. 1909⁵Printed in Vol. II of this Code⁶Ben. Act I of 1899 is repealed in the Chittagong Hill-tracts by the Eastern Bengal and Assam General Clauses Act, 1909 (R. B. & A. Act: 1 of 1909), s. 2, in Vol. III of this Code

of 1900.)

*(The Schedule.)*THE SCHEDULE *contd.*ENACTMENTS DEEMED IN FORCE IN THE CHITTAGONG HILL TRACTS *contd.*

1	2	3	4	5
Year	No.	Short title or subject	Extent of application	Modification
3.—REGULATION OF THE BONGAL CODE				
1818	34	The Bongal State Prisoners Regulation 1818	So much as may from time to time, be in force in the district of Chittagong	
4.—REGULATION MADE UNDER THE GOVERNMENT OF INDIA ACT 1870 (33 VICT., c. 3)				
1881	34	The Chittagong Hill Tracts Frontier Police Regulation 1881		For the words "Deputy Commissioner," wherever they occur, the words "Superintendent" shall be substi-

PART IV.—ORDINANCE MADE UNDER SECTION 23 OF THE INDIAN COUNCILS ACT, 1861 (24 AND 25 VICT. C. 67), FOR THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

ORDINANCE NO. 1 OF 1912

(THE BENGAL COTTON-GAMBLING ORDINANCE, 1912.)¹

(13th December 1912.)

rt title
extent

1. (1) This Ordinance may be called the Bengal Cotton-gambling Ordinance, 1912: and,

(2) It extends to the Presidency of Fort William in Bengal.

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visions
otton-
bling

2. The definitions of "gaming", "instruments of gaming" and "common gaming house", in section 59² of the Howrah Offences Act, 1857, section 3 of the Calcutta Police Act, 1866,³ and section 1 of the Bengal Public Gambling Act, 1867,⁴ as amended by the Bengal Rain-gambling Act, 1897, shall respectively be deemed to include—

21 of 1857.
Ben. Act 4
of 1866.
Ben. Act 2
of 1867.
Ben. Act 8
of 1897.

cotton-gambling (that is to say, wagering on a number to be arrived at by a manipulation of figures showing rates for the sale of cotton or other marketable commodity),

books or registers in which cotton-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of cotton-gambling, and,

any house, room, tent, enclosure, vehicle, vessel or place in which cotton-gambling is carried on for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel or place.

¹ LOCAL EXTENT.—This Ordinance extends to Bengal—see section 1 (1).

² Printed ante, p. 377.

³ Printed in Vol. II of this Code.

